

# Transfer Taxes - By Jurisdiction

## Executive Summary

### TRANSFER TAXES

#### ANNUAL REPORT EXECUTIVE SUMMARY

June 2020

[Transfer Taxes – 2020 Short Answer Table](#)

[Map - Mortgage Recordation Tax \(June 2020\)](#)

[Map - Transfer Tax \(June 2020\)](#)

#### **Overview**

Transfer and related taxes prove to be fertile legislative ground, with nearly 80 percent of surveyed jurisdictions possessing substantial legislative and regulatory regimes. Of those, approximately one quarter achieved their regulatory frameworks during the 1990s and another one quarter during the 2000s. However, in recent years a few states, such as North Dakota and Oregon, have passed ballot measures that amend their state constitutions to prohibit transfer taxes.

Sixteen jurisdictions do not have specific state-wide provisions regarding transfer taxes, although some of those have a state-level mandate to the local authority to collect recordation fees. Several of those jurisdictions, including Idaho, Indiana, New Mexico, and Wyoming, have introduced or have been considering transfer tax provisions since 2000.

Legislative changes to transfer tax laws are common. The most significant changes typically revise the statutes' applications, change fund allocations, or revise the tax rate, although many changes are not substantive or specifically relevant to this survey.

In 2020, West Virginia passed legislation that will, over a ten year period, phase-out its state transfer tax and replace it with a county transfer tax.

## **Transfer Tax Amount**

The transfer tax is generally a percentage of consideration or a flat fee per unit of value. Of states levying the tax, approximately 20 percent use a percentage of the total transfer consideration. Of the remaining states, most flat fees apply to each \$100 or \$500 of value. Some states also apply a flat recording fee or de minimus charge before applying this mill-rate model. Six states have adopted constitutional amendments that prohibit mortgage recording taxes or transfer taxes on real property mortgages or transfers.

Between July 2017 and July, 2018, Washington raised its affordable housing surcharge on its transfer tax, and the District of Columbia reduced its transfer tax for qualified first-time homebuyers. Between July 2018 and July 2019, Washington changed its transfer tax rate from a fixed amount to a graduated rate based on selling price, and both Connecticut and New York enacted a so-called "mansion tax," which imposes higher marginal rates on conveyances of high-end homes. Delaware reduced its transfer tax for qualified first-time homebuyers. and Maryland significantly amended its provisions governing the transfer of agricultural land.

In the past year, the District of Columbia increased its transfer tax by imposing a surcharge on properties valued at \$2 million or more.

## **Mortgage Recordation Tax Amount**

Thirty percent of the surveyed jurisdictions also levy a mortgage recordation tax. Of those, more than half use a flat fee per unit of debt as the basis for the tax. The remaining states use a flat fee for each mortgage regardless of the total amount secured. All states without a mortgage recordation tax charge recording or filing fees.

Between July 2015 and July 2017, the most significant changes occurred in Indiana and Michigan, both of which generally switched from page-based fees to flat mortgage recordation fees. North Dakota also amended its county mortgage recording fee statute. During the following year, Arizona, Illinois and Nevada changed recording fees to a flat-fee basis. Since July 2018, Utah modified its recording fee structure from a page-based fee to a flat fee, and Illinois passed legislation requiring third-class counties to implement a fixed fee for recording deeds and mortgages.

In the past year, the District of Columbia increased its recordation tax by imposing a surcharge on properties valued at \$2 million or more.

### **Party Required to Pay Tax**

Sixty-six percent of surveyed jurisdictions specify which party is required to pay the transfer or other tax. About 18 percent of those mandate an even split of the transfer tax burden or specify a “joint and several” responsibility. Of the remaining legislating states, approximately nine percent allow the parties to agree between themselves who will be responsible, while the other almost 75 percent put the tax with the grantor, grantee, recorder, or party who “makes or signs” the instrument. Forty-one percent of the jurisdictions specifying the paying party place the obligation on the grantor.

### **Exemptions**

For every rule, there are exceptions, and transfer and mortgage recordation taxes are no exception to that rule. Over 72 percent of the surveyed jurisdictions have substantial exemption provisions. These exemptions include transfers ordered by a court, transfers via testamentary document, transfers for low consideration, transfers of partial interests (such as gas or mineral rights), and transfers to the government, among others. Some jurisdictions also provide additional exemption grounds at the county or municipal level.

Between July 2017 and July 2018, Maryland, Michigan and Washington amended their exemptions. Since July 2018, Florida, New Hampshire and Vermont were among those states making exemption modifications.

### **Earmarked Uses**

States frequently change the uses to which transfer and recordation taxes must be dedicated. Between July 2015 and July 2017, Indiana significantly amended the distribution provisions relating to recording fees. And, during the July 2017-2018 year, Maine, Oklahoma and Vermont made adjustments to their transfer tax distribution statutes. Since July 2018, Maryland and Washington made such changes.

## Alabama

### Alabama, Earmarked Use for Tax

#### **TRANSFER TAX**

The tax collected under § 40-22-1 is allocated as follows:

- two-thirds, to the State Treasury; and
- one-third, to the county treasury.

If the probate judge is paid on fees and commissions, he or she receives 2.5 percent of the amount collected under § 40-22-1 as a commission, which amount is deducted from the total collected and retained by the judge when settling the collections as required by law.

#### **MORTGAGE RECORDATION TAX**

The taxes collected under § 40-22-2 are allocated as follows:

- one-third, to the county treasurer of the county in which the taxes are collected; and
- two-thirds, to the State Treasury.

The probate judge receives 5 percent of the amount collected as compensation for services.

Section 40-22-1 amended 2012; § 40-22-2 amended 2004.

[Ala. Code §§ 40-22-1, -2 \(2019\)](#)

## Alabama, Exemptions from Tax

### **TRANSFER TAX**

The following are exempt from the transfer tax imposed by § 40-22-1:

- mortgages upon which the mortgage tax has been paid;
- deeds or instruments executed for nominal consideration to perfect title;
- recording corrected mortgages, deeds, or instruments executed to perfect title;
- instruments executed before October 1, 1923;
- a deed, bill of sale, or similar instrument that divides any religious organization into two or more similar organizations or completes a merger or consolidation of religious organizations into a single organization; or
- a transfer of an instrument recorded by an exempt institution, as set forth in § 40-22-6, which include those organizations that are exempt from paying the mortgage recording tax.

Mortgage and recording taxes related to mortgages, deeds, and documents "relating to issuing or securing obligations and conveying title into or out of the public authority or county or municipal government with respect to a private use industrial property" and certain other mortgage and recording taxes related to "private use industrial property" may be abated by complying with the procedures set forth in chapter 40-9B (the "Tax Incentive Reform Act of 1992"). Similarly, entities that qualify under chapter 40-9D (the "Alabama Economic Incentive Enhancement Act of 2007") are allowed an abatement for certain mortgage-related taxes and recording taxes related to mortgages, deeds, and other documents.

### **MORTGAGE RECORDATION TAX**

The following are exempt from the mortgage recording tax imposed by § 40-22-2:

- a security agreement or a financing statement relating solely to security interests in accounts, contract rights or general intangibles;
- recording corrected mortgages, deeds, or instruments executed to perfect title;
- mortgages and similar instruments from certain corporations or associations, with respect to an instrument executed to secure a loan made to one of its members for general agricultural purposes;
- mortgages and similar instruments from a corporation or association engaged exclusively in making farm or crop loans, with respect to any instrument securing a loan to one of its stockholders or members for general agricultural purposes, including documents to entities created under the Federal Farm Loan Act;
- certain mortgages, deeds of trust, contracts of conditional sale, or other similar instruments given to secure the payment of any debt incurred to a corporation or organization exempt from the payment of the recording privilege tax imposed by § 40-22-2; or
- debt secured by instrument upon which a recording tax has previously been paid.

Mortgage and recording taxes related to mortgages, deeds, and documents "relating to issuing or securing obligations and conveying title into or out of the public authority or county or municipal government with respect to a private use industrial property" and certain other mortgage and recording taxes related to "private use industrial property" may be abated by complying with the procedures set forth in chapter 40-9B (the "Tax Incentive Reform Act of 1992"). Similarly, entities that qualify under chapter 40-9D (the "Alabama Economic Incentive Enhancement Act of 2007") are allowed an abatement for certain mortgage-related taxes and recording taxes related to mortgages, deeds, and other documents.

Sections 40-22-4, 40-22-8, 40-22-6, and 40-22-10 enacted 1951; § 40-22-5 amended 1969; § 40-22-5.1 enacted 1976; § 40-22-2 amended 2004; § 40-9D-4 enacted 2007; §§ 40-9B-4 and 40-22-1 amended 2012.

[Ala. Code §§ 40-22-1, -2, -4, -5, -5.1, -6, -8, -10; -9B-4; -9D-4 \(2019\)](#)

## Alabama, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

Alabama imposes a recording tax on:

- a mortgage, deed of trust, contract of conditional sale, or similar instrument that secures a debt and conveys real property in Alabama; and
- a security agreement or financing statement provided for by the Uniform Commercial Code.

The tax amount on instruments that secure or evidence an initial debt is as follows:

- \$.15, if the debt does not exceed \$100; and
- \$.15 for each \$100 (or fraction thereof), if the debt is greater than \$100.

See § 40-22-2 for additional provisions that apply if the tax is imposed on open-end or revolving-debt mortgages.

If the payment term is extended or renewed, the tax must be paid on the amount of debt extended or renewed. No state, county or municipal tax may be imposed on any instrument upon which the tax imposed by § 40-22-2 has been paid.

### **REFINANCED MORTGAGE**

No applicable provisions were located, although § 40-22-2 appears to apply only to instruments that secure an "initial" debt.

Section amended 2004.

[Ala. Code § 40-22-2 \(2019\)](#)

## Alabama, Other Relevant Provisions

### **MINERAL DOCUMENTARY TAX**

Alabama also imposes a mineral documentary tax on the recording of:

- a lease or leasehold interest in any nonproducing oil, gas or other minerals on any Alabama land, or whereby any such interest is assigned or extended beyond the primary term fixed by the original instrument; and
- on every deed or other evidence of sale that conveys an interest in or right to receive royalty from any nonproducing oil, gas or other minerals in any Alabama land;
- provided that the tax does not apply to any mortgage or instrument creating a lien on such interest or to a foreclosure sale transfer.

The amount of the tax is the greater of \$1 or:

- \$.05 per "mineral or royalty acre," if the primary term expires 10 years or less from the execution date;
- \$.10 per "mineral or royalty acre," if the primary term expires more than 10 years but not more than 20 years from the execution date; or
- \$.15 per "mineral or royalty acre," if the primary term is greater than 20 years.



The grantee must pay the tax.

See §§ 40-20-33 through 40-20-35 for additional provisions relating to the mineral documentary tax.

### **OUT-OF-STATE RESIDENTS**

Note that effective August 1, 2008, Alabama imposes a tax on the sale of Alabama real property by a nonresident. Although not technically a "transfer tax," the tax is imposed at a rate of 3 percent of the purchase price of real property for individual buyers and 4 percent for entities. The tax is the buyer's liability and withheld upon sale. If the amount required to be withheld exceeds the net proceeds payable to the seller, the buyer is required to withhold and pay to the commissioner "only the net proceeds otherwise payable to the seller." A buyer who fails to withhold the required amount is personally liable for the tax.

Sections 40-20-31 and 40-20-32 enacted 1957; § 40-18-86 enacted 2008.

[Ala. Code §§ 40-18-86; 40-20-31, -32 \(2019\)](#)

### **Alabama, Party Required to Pay Tax**

#### **TRANSFER TAX**

Although not explicitly stated, it appears that the person presenting the instrument for recording must pay the transfer tax.

#### **MORTGAGE RECORDATION TAX**

Although not explicitly stated, it appears that the person to whom the instrument is payable must pay the mortgage recordation tax.

Section 40-22-1 amended 2012; § 40-22-2 amended 2004.

See [Ala. Code §§ 40-22-1, -2 \(2019\)](#)

## Alabama, Transfer Tax Amount

### **STATE TAX**

Alabama imposes a transfer tax on each deed, bill of sale, or other instrument that conveys real property in Alabama and that is received for record. The tax amount is:

- \$.50, if the property value is \$500 or less; and
- \$.50 for each \$500 (or fraction thereof), if the property value exceeds \$500, provided that the tax applies only to the value in excess of any mortgages or vendor's liens on which the mortgage tax has been paid.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2012.

[Ala. Code § 40-22-1 \(2019\)](#)

## Alaska

### Alaska, Earmarked Use for Tax

No applicable provisions were located.

### Alaska, Exemptions from Tax

No applicable provisions were located.

## Alaska, Mortgage Recordation Tax Amount

No applicable provisions were located. However, the Department of Commerce, Community, and Economic Development may collect a nominal program administration fee for each mortgage loan transaction to reimburse the state for the cost of administering the Mortgage Lending Regulation Act. Also, a document must be accompanied by the applicable recording fee.

Section 40.17.030 amended 2008; § 06.60.800 amended 2010.

[Alaska Stat. §§ 06.60.800; 40.17.030 \(2019\)](#)

## Alaska, Other Relevant Provisions

No other relevant provisions were located.

## Alaska, Party Required to Pay Tax

No applicable provisions were located. However, the borrower must pay the nominal program administration fee, unless the regulations of a loan program that insures the loan prohibit the borrower from paying the program administration fee, in which case another party to the mortgage loan transaction must pay the fee.

Section amended 2010.

[Alaska Stat. § 06.60.800 \(2019\)](#)

## Alaska, Transfer Tax Amount

No applicable provisions were located.

## Arizona

### Arizona, Earmarked Use for Tax

#### **TRANSFER TAX**

The county retains all funds collected by the additional transfer fee, in the same manner as the funds collected by the standard recording fees.

## **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Note: In addition to any other fee charged, the Board of Supervisors may assess a special recording surcharge of not to exceed \$4.00 for each instrument, paper or notice filed with the county recorder, which surcharge is to be placed in the document storage and retrieval conversion and maintenance fund. See [Ariz. Rev. Stat. § 11-475.01](#). *Effective July 1, 2019*, any such fee is included in the flat \$30 filing fee to be charged by the county recorder for each instrument.

Section 11-1132 amended 2018.

[Ariz. Rev. Stat. § 11-1132 \(2019\)](#)

## Arizona, Exemptions from Tax

### **TRANSFER TAX**

The additional transfer fee does not apply to the following instruments:

- a deed that represents full payment or forfeiture of a recorded contract for sale;
- a lease;
- an easement;
- a transfer of real property in which an agency or representative of the United States, Arizona, or its subdivision is the grantor or purchaser;

- a quitclaim deed to quiet title or otherwise executed for no monetary consideration;
- a deed executed pursuant to a court order;
- a deed to an "unpatented mining claim";
- a gift;
- an instrument to provide or release security;
- a deed that confirms or corrects a previously recorded deed;
- a deed with only nominal consideration between spouses, ancestors of spouses, parent and child, grandparent and grandchild, or siblings;
- a deed pursuant to a sale for delinquent taxes or assessments;
- a partition deed;
- a deed pursuant to a merger;
- a deed for no or nominal consideration by a subsidiary to its parent, from a parent to a subsidiary, or between other specified related entities;
- a deed from a person to a trustee or from a trustee to a trust beneficiary, with only nominal consideration;

- a deed to and from an intermediary to create a joint tenancy;
- a deed from a husband or wife to both the husband and wife to create "an estate in community property";
- a deed from two or more persons to themselves to create a joint tenancy;
- a beneficiary deed with only nominal consideration;
- a deed from an owner to itself or to a related entity for no or nominal consideration to consolidate or split parcels; or
- a deed arising from a legal name change.

### **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Section amended 2012.

[Ariz. Rev. Stat. § 11-1134 \(2019\)](#)

### **Arizona, Mortgage Recordation Tax Amount**

#### **INITIAL MORTGAGE**

Until June 30, 2018, the county recorder collects a nominal recording fee that varies based on the type of document and its length, plus \$25.00 for each deed of trust or mortgage, which amount includes any fee imposed by the county for its document storage and retrieval conversion and maintenance fund.

*Effective July 1, 2019*, the \$2.00 transfer fee and the conversion and maintenance fund fee are included in a flat \$30.00 per instrument fee to be collected by the county recorder.

## **REFINANCED MORTGAGE**

No applicable provisions were located.

Statutory sections amended 2018.

[Ariz. Rev. Stat. § 11-475, -475.01 \(2019\)](#)

## Arizona, Other Relevant Provisions

No other relevant provisions were located.

Note that the Arizona Constitution prohibits the state or any Arizona county, city, town, or other political subdivision or district from imposing "any new tax, fee, stamp requirement or other assessment, direct or indirect, on the act or privilege of selling, purchasing, granting, assigning, transferring, receiving, or otherwise conveying" a real property interest. This restriction does not apply to a tax, fee, or other assessment that existed on December 31, 2007.

Constitutional amendment passed 2008.

[Ariz. Const. art. IX, § 24](#)

## Arizona, Party Required to Pay Tax

## **TRANSFER TAX**

No applicable provisions were located.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

## Arizona, Transfer Tax Amount

### **STATE TAX**

No applicable provisions were located. Arizona's constitution provides that neither the state nor any of its political subdivisions may impose a "new tax, fee, stamp requirement or other assessment, direct or indirect, on the act or privilege of selling, purchasing, granting, assigning, transferring, receiving, or otherwise conveying any interest in real property." This restriction does not apply to a tax, fee, or other assessment in existence on December 31, 2007.

### **CITY OR COUNTY TAX**

Until June 30, 2018, before recording a deed that transfers, conveys or affects an interest in real property, the county recorder collects a fee of \$2.00, in addition to the \$15.00 applicable filing fee collected pursuant to § 11-475. The filing fee amount includes any fee imposed by the county for its document storage and retrieval conversion and maintenance fund.

*Effective July 1, 2019*, the \$2.00 transfer fee and the conversion and maintenance fund fee are included in a \$30.00 per instrument fee to be collected by the county recorder.

Statutory sections amended 2018; constitutional amendment ratified 2008.

See [Ariz. Rev. Stat. §§ 11-475, -475.01 -1132 \(2019\)](#); [Ariz. Const. art. IX, § 24](#)

## Arkansas

### Arkansas, Earmarked Use for Tax

### **TRANSFER TAX**



***Transfer tax levied by § 26-60-105(a)***

Revenues from the tax levied by § 26-60-105(a) are allocated as follows:

- the first 3 percent is distributed to the Constitutional Officers Fund and the State Central Services Fund;
- 10 percent of the remainder is distributed as special revenues, with the first \$157,500 each fiscal year credited to the County, Circuit, and County Coroner Clerks Continuing Education Fund to be used to defray the expenses of training seminars and educational projects benefiting county and circuit clerks and coroners; with the remainder of the 10 percent distributed to the county general fund;
- 90 percent of the remainder is distributed as follows: “the entire amount collected during each fiscal year until there has been collected an amount of such tax equaling the amount of tax collected under this chapter during fiscal year 1982-83” is credited as general revenue to be allocated “to the various funds participating in the distribution of general revenues in the amount of each such fund as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law”; and
- after the above distributions, the remainder each fiscal year is credited to the Administration of Justice Fund to supplement court reporter salaries and expenses if the Court Reporter's Fund is inadequate.

Regulations also indicate that the following are funded by the real estate transfer tax:

- pursuant to regulation 012-02-001, the Main Street Arkansas Downtown Revitalization Grant Program;
- pursuant to regulation 012-02-003, the County Courthouse Restoration Grants; and

- pursuant to regulation 012-02-006, the Preservation Education Grants.

***Additional tax (levied by § 26-60-105(b))***

The revenues from the additional tax levied by § 26-60-105(b) are special revenues, allocated pursuant to § 15-12-103.

**MORTGAGE RECORDATION TAX**

No applicable provisions located.

Section 26-60-106 amended 1995; § 26-60-105 amended 2011; § 26-60-112 amended 2019; regulation 001 amended 1996; r. 003 and r. 005 amended 2001.

Ark. Code §§ 26-60-106, -112 (LexisNexis 2020); 012-02 Ark. Code R. §§ 001, 003, 006 (2020)

[Arkansas, Exemptions from Tax](#)

**TRANSFER TAX**

The real property transfer tax imposed by Chapter 26-60 does not apply to the following instruments:

- transfers to or from the United States, Arkansas, or the political subdivisions of either;
- given solely to secure a debt;

- given solely to correct or replace a previously recorded instrument with the tax paid with the previous recording;
- conveying land sold for delinquent taxes;
- conveying a leasehold interest;
- conveying the right to remove timber from land, if the instruments convey the right to remove the timber for a period of no more than 24 months;
- given by one party to the other in a divorce action as a division of marital property;
- given in a judicial or, effective July 21, 2015, nonjudicial proceeding to enforce a security interest if the instrument transfers the property to the same person who is seeking to enforce the security interest;
- a deed in lieu of foreclosure or to avoid a judicial or, effective July 21, 2015, nonjudicial proceeding to enforce a security interest in real estate;
- conveying a home financed by the F.H.A., V.A., or U.S.D.A. Rural Development, provided the home's sale price is \$60,000 or less and neither the buyer or his spouse owned a home within the preceding three years;
- conveying land between corporations or other business entities or between a business entity and its shareholders, partners, or members incident to the "organization, reorganization, merger, consolidation, capitalization, asset distribution, or liquidation" of the corporation or entity; or
- a beneficiary deed under § 18-12-608.

Arkansas regulations also provide that instruments conveying cemetery lots or plots are exempt from the real estate transfer tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Statutory section amended 2015; regulation effective 1985.

Ark. Code § 26-60-102 (LexisNexis 2020); 006-05 Ark. Code R. 015 (2020)

### [Arkansas, Mortgage Recordation Tax Amount](#)

### **INITIAL MORTGAGE**

No applicable provisions were located. However, nominal recording fees apply to all mortgage documents.

### **REFINANCED MORTGAGE**

No applicable provisions were located. However, nominal recording fees apply to all mortgage documents.

Section amended 2009.

See Ark. Code § 21-6-306 (LexisNexis 2020)

### [Arkansas, Other Relevant Provisions](#)

No other relevant provisions were located.

## Arkansas, Party Required to Pay Tax

### **TRANSFER TAX**

Unless agreed otherwise, the tax levied by chapter 26-60 is paid:

- one-half by the grantor or seller; and
- one-half by the grantee or purchaser.

The purchaser pays the \$2.20 additional tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Section 26-60-105 amended 2011; § 26-60-106 amended 1995.

Ark. Code §§ 26-60-105, -106 (LexisNexis 2020)

## Arkansas, Transfer Tax Amount

### **STATE TAX**

The state levies the following on each deed, instrument, or writing, provided the consideration exceeds \$100:

- a tax at the rate of \$1.10 for each \$1,000 (or fraction thereof); and

- an additional tax of \$2.20 for each \$1,000 (or fractional thereof).

The taxes are based solely on the consideration given for the realty, and not on the consideration given for tangible or intangible personal property.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2011.

Ark. Code § 26-60-105 (LexisNexis 2020)

## California

### California, Earmarked Use for Tax

### **TRANSFER TAX**

The county auditor must allocate the tax proceeds as follows:

- amounts that relate to transfers of real property located in unincorporated areas of the county or in a city and county are allocated to the county or city and county, as applicable;
- amounts that relate to transfers of real property located in a city that imposes a tax on real property transfers must be allocated one-half to the city and one-half to the county;
- amounts that relate to transfers of real property located in a city that imposes a tax that does not conform with part 6.7 is not credited against the county tax, and the entire amount is allocated to the county; and

- amounts that relate to transfers of real property in a city that does not impose a tax on real property transfers is allocated entirely to the county.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1968.

[Cal. Rev. & Tax. Code § 11931 \(2019\)](#)

### California, Exemptions from Tax

#### **TRANSFER TAX**

The following are exempt from the transfer tax:

- a deed, instrument or writing to which the United States, a federal agency or instrumentality, a state, or a political subdivision, provided that party is acquiring title;
- a conveyance under any reorganization plan that is (a) confirmed under the Federal Bankruptcy Code, (b) approved in an equity receivership proceeding in a court involving a railroad corporation, (c) approved in a corporate equity receivership proceeding, or (d) merely changes identity, form or place of organization, provided the conveyances occur within five years from the confirmation date;
- certain specified conveyances pursuant to any S.E.C. order, as defined in § 1083(a) of the Internal Revenue Code;

- a transfer of an interest in partnership that owns property, if the partnership is “a continuing partnership” under the Internal Revenue Code and the partnership continues to hold the realty;
- a deed, instrument, or writing to a beneficiary or mortgagee that is taken as a result of or in lieu of foreclosure, except that the tax applies to the extent that the consideration exceeds the unpaid debt, including accrued interest and foreclosure costs;
- a deed, instrument, or writing that purports to “transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to the Family Code, or by a written agreement between the spouses”;
- a deed, instrument, or other writing by which realty is conveyed by California or one of its political divisions, pursuant to an agreement whereby the purchaser agrees to immediately reconvey the realty to the exempt agency;
- certain deeds, instruments, or other writings by California or one of its political subdivisions that convey certain realty to a nonprofit corporation; or
- certain deeds, instruments, or other writings that convey realty by inter vivos gift or because of a person’s death.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 11922 amended 1969; § 11923 amended 2009; § 11924 enacted 1967; § 11926 amended 1974; § 11927 amended 1992; §§ 11928 and 11929 enacted 1987; § 11925 amended 1999; § 11930 enacted 1996.



## California, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable tax provisions were located. However, California statutes provide for a standard recording fee based on the document's length and a nominal per document fee. Also, a county recorder, upon the board of supervisors' authorization, may charge, until December 31, 2017, a small additional fee for recording the first page of each instrument, provided the county recorder uses that amount to implement a social security number truncation program.

Upon county resolution, the county may also charge an additional nominal fee at the time of recording a real estate instrument, which amount must be placed in the Real Estate Fraud Prosecution Trust Fund and used to fund "programs to enhance the capacity of local police and prosecutors to deter, investigate, and prosecute real estate fraud crimes." Such a fee does not apply to a real estate instrument if:

- it is accompanied by a declaration stating that the transfer is subject to a documentary transfer tax pursuant to Cal. Rev. & Tax Code § 11911;
- it is recorded concurrently with a document subject to a documentary transfer tax pursuant to Cal. Rev. & Tax Code § 11911;
- it is presented for recording within the same business day as, and is related to the recording of, a document subject to a documentary transfer tax pursuant to Cal. Rev. & Tax Code § 11911.

**Note:** A real estate instrument, paper, or notice that is so exempt must be accompanied by a statement that includes a statement that the real estate instrument, paper, or notice is exempt from the fee and a statement of the recording date and the recorder identification number or book and page of the previously recorded document.

## **REFINANCED MORTGAGE**

No specifically applicable provisions were located.

Section 27361 amended 2009; § 27388 amended 2015.

[Cal. Gov't Code §§ 27361, 27388 \(2019\)](#)

### California, Other Relevant Provisions

No other relevant provisions were located.

### California, Party Required to Pay Tax

## **TRANSFER TAX**

The "person who makes, signs or issues any document or instrument subject to the tax" must pay the tax imposed pursuant to § 11911.

The purchaser of levied upon real property must pay the documentary transfer tax.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 11912 enacted 1967; § 701.660 amended 2010.

[Cal. Civ. Proc. § 701.660; Rev. & Tax. Code § 11912 \(2019\)](#)

### California, Transfer Tax Amount

## **STATE TAX**

No applicable provisions were located.

## **CITY OR COUNTY TAX**

Any county or city may impose a tax on each deed, instrument, or writing by which realty within the county is conveyed, provided the consideration or value of the property (excluding any liens) is greater than \$100. The tax rate is \$0.55 for each \$500 (or part thereof).

A city within a county that has imposed the above tax may impose a tax on each deed, instrument, or writing by which any realty within the city is conveyed, provided the consideration or value of the property (excluding any liens) is greater than \$100. The tax rate is one-half the amount specified above, and a credit is allowed against the tax imposed by the county for the amount of any tax due to any city.

Section enacted 1967.

[Cal. Rev. & Tax. Code § 11911 \(2019\)](#)

## Colorado

### Colorado, Earmarked Use for Tax

## **TRANSFER TAX**

Documentary fees must be "deposited with the treasurer at least once each month and credited by him in the manner prescribed by law."

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1967.

Colo. Rev. Stat. § 39-13-108 (LexisNexis 2018)

## Colorado, Exemptions from Tax

### **TRANSFER TAX**

The documentary fee does not apply to the following:

- a deed in which the United States, its agency or instrumentality, Colorado, or its political subdivision is either the grantor or the grantee;
- a deed conveying title to real property as a gift;
- a public trustee's deed executed pursuant to the § 38-38-501;
- a treasurer's deed executed in accordance with chapter 39-11;
- a sheriff's deed;
- an instrument that confirms or corrects a previously recorded deed;
- a deed granting or conveying title to cemetery lots;
- an executory contract for the sale of real property with a term of less than three years under which the vendee is entitled to or takes possession without acquiring title to the property (or any assignment or cancellation of such contract);

- a real property lease;
- a document given to secure payment of a debt;
- a document granting or conveying a future interest in real property;
- a court decree or order determining or vesting title;
- a document necessary to transfer title to property as a result of the owner's death; or
- a right-of-way or easement.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1991.

Colo. Rev. Stat. § 39-13-104 (LexisNexis 2018)

### **Colorado, Mortgage Recordation Tax Amount**

### **INITIAL MORTGAGE**

No applicable provisions were located. However, state law provides for a documentary filing fee and surcharge.

## **REFINANCED MORTGAGE**

No applicable provisions were located. However, state law provides for a documentary filing fee and surcharge.

Section 30-1-103 amended 2010; § 30-10-421 amended 2016.

Colo. Rev. Stat. §§ 30-1-103, -10-421 (LexisNexis 2018)

### [Colorado, Other Relevant Provisions](#)

No other relevant provisions were located.

### [Colorado, Party Required to Pay Tax](#)

## **TRANSFER TAX**

The "person offering for recording" a deed or instrument must pay the documentary fee.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2016.

Colo. Rev. Stat. § 39-13-102 (LexisNexis 2018)

### [Colorado, Transfer Tax Amount](#)

## **STATE TAX**

Colorado imposes a documentary fee on any deed or instrument conveying title to Colorado property. The fee is based on the consideration paid and is in addition to "any other fee fixed by law for the recording of such deed or instrument." The amount of the documentary fee payable is as follows:

- if the total consideration, including the amount of any liens and all required charges and expenses, is \$500 or less, no documentary fee is payable; or
- if the total consideration, including the amount of any liens and all required charges and expenses, exceeds \$500, the documentary fee is \$0.01 for each \$100 (or major fraction thereof) of the consideration.

Colorado's constitution provides that "[n]ew or increased transfer tax rates on real property are prohibited."

### **CITY OR COUNTY TAX**

No applicable statutory provisions were located.

Section amended 2016; constitutional section amended 1996.

Colo. Rev. Stat. § 39-13-102 (LexisNexis 2018); Colo. Const. art. X, § 20(8)

## Connecticut

### Connecticut, Earmarked Use for Tax

### **TRANSFER TAX**

The tax imposed by § 12-494 is allocated as follows:

- pursuant to § 12-494(a)(1), 0.75 percent of the consideration for the real property interest conveyed is remitted to the Commissioner of Revenue Services and deposited in the state General Fund; and
- pursuant to § 12-494(a)(2), 0.25 percent of the consideration for the real property interest conveyed becomes a part of the general revenue of the municipality in accordance with § 12-499. (Note that the provisions related to the .11-percent tax were deleted from § 12-494 in 2011.)

The portion payable to the Commissioner of Revenue Services becomes part of the general revenue of the municipality in which the tax is paid, except that, in municipalities in which the town clerk is paid from fees, the town clerk retains \$1.00 of the tax for each deed, instrument or writing recorded, provided the value of the property or interest is at least \$2000.

### ***Additional tax***

The revenue from the additional tax provided by § 12-494(c) becomes a part of the municipality's general revenue in accordance with § 12-499.

### **MORTGAGE RECORDATION TAX**

Recording fees paid in accordance with § 7-34a (a), (d) and (e) by a nominee of a mortgagee and collected upon a recording by a nominee of a mortgagee, the town clerk must remit \$110 of the fees to the state to be deposited into the General Fund, to be allocated as follows:

- \$36 of the fee is credited to the community investment account;
- the town clerk retains \$49 of the fee, \$39 of which becomes part of the municipality's general revenue and \$10 of which is deposited into the town clerk fund; and
- the town clerk retains any fees for additional pages beyond the first page.



Section 12-494 amended 2019; § 12-499 amended 1983; formerly applicable § 12-494a repealed 2013; § 49-10 amended 2013.

[Conn. Gen. Stat. §§ 12-499, -494](#) (as amended by [2019 Conn. Pub. Act 19-117, § 337](#)); [49-10 \(2019\)](#)

## Connecticut, Exemptions from Tax

### **TRANSFER TAX**

The taxes imposed by § 12-494 do not apply to the following deeds:

- transferring burial rights for certain cemetery lots;
- that Connecticut cannot tax under federal law;
- securing a debt or other obligation;
- to which Connecticut or any of its political subdivisions or their agencies is a party;
- tax deeds;
- releasing property that is security for a debt;
- partitioning;
- pursuant to corporate mergers;

- by a subsidiary to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
- pursuant to a decree of the Superior Court under §§ 46b-81, 49-24, or 52-495 or, as of January 1, 2015, pursuant to a judgment of foreclosure by market sale, or pursuant to a judgment of loss mitigation under §§ 49-30t or 49-30u;
- if the consideration for the interest or property is less than \$2000;
- between affiliated corporations, provided both corporations are exempt from taxation pursuant § 501(c)(2), (3) or (25) of the Internal Revenue Code;
- by a corporation exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code to any other exempt corporation;
- to any nonprofit organization organized to hold undeveloped land in trust for conservation or recreation purposes;
- between spouses;
- of property for the Adriaen's Landing site or the stadium facility site;
- certain land transfers made on or after July 1, 1998, to a water company;
- merely changing the identity or form of ownership or organization, provided there is no change in beneficial ownership;
- conveying residential property that occurs no later than 6 months after the date on which the property was previously conveyed to the transferor if the transferor is either an

employer that acquired the property from an employee pursuant to an employee relocation plan or an entity that purchases and sells residential property of employees being located pursuant to an employee relocation plan;

- deeds in lieu of foreclosure that transfer the transferor's principal residence;
- an instrument transferring the transferor's principal residence if the gross purchase price is insufficient to pay the sum of (a) mortgages encumbering the property transferred, and (b) real property taxes and municipal utility or other charges for which the municipality may place a lien on the property and that have priority over the mortgages encumbering the property and
- effective July 1, 2019, deeds that transfer the transferor's principal residence, where such residence has a concrete foundation that has deteriorated due to the presence of pyrrhotite and such transferor has obtained a written evaluation from a professional engineer indicating that the residence's foundation was made with defective concrete, provided this exemption applies to the first transfer of the residence after the written evaluation has been obtained, and is not be available to a transferor who has received financial assistance to repair or replace the foundation from the Connecticut Crumbling Foundations Assistance Fund.

(Note that effective October 1, 2010, an act restored an exemption, eliminated in 2009, for transfers made pursuant to a foreclosure by sale.)

The tax imposed by § 12-494(a)(1) does not apply to deeds:

- of the principal residence of any person approved for assistance under §§ 12-129b or 12-170aa for the current assessment year or to any transfer that occurs within 15 months of the completion of any municipal assessment year for which such person qualified for the assistance;
- of property located in an area designated as an enterprise zone pursuant to § 32-70; and

- of property located in certain entertainment districts.

The following transactions are not conveyances and, therefore, are not subject to the transfer tax:

- an option to purchase;
- a contract for the sale of realty that does not vest legal title;
- an assignment of a right held under an option or contract for sale;
- a deed deposited in escrow, although the deed is subject to tax upon the transferee's acceptance; or
- certain leases.

The following conveyances are not subject to the tax:

- conveying realty as a gift;
- confirming title, such as a quitclaim deed to correct a title flaw;
- a transfer from an agent to his principal conveying realty purchased with the principal's funds;
- a deed executed by a debtor conveying property to a trustee for the benefit of his creditors;

- conveying to a receiver realty included in the receivership assets and reconveying the realty upon the receivership's termination; or
- a conveyance to or by a fiduciary not pursuant to a sale.

## **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Section 12-497a replaced 2003; § 12-498 amended 2019; regulation effective 1987.

[Conn. Gen. Stat. §§ 12-497a \(2019\), -498](#) (as amended by [2019 Conn. Pub. Act 19-117, § 336](#)); [Conn. Agencies Regs. § 12-494-2 \(2020\)](#)

## Connecticut, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the town clerk collects a recording fee that varies based on the document's length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2018.

[Conn. Gen. Stat. § 7-34a \(2019\)](#)

## Connecticut, Other Relevant Provisions

### **CONVEYANCE TAX ON FARM, FOREST, OR OPEN-SPACE LAND**

#### ***Open-space land***

Any land classified as open-space land pursuant to § 12-107e or as maritime heritage land, provided the land is sold or transferred within ten years from the date the land was classified, is subject to a conveyance tax in addition to the taxes imposed under §§ 12-494 through 12-504. The conveyance tax rate is as follows:

- 10 percent of the total sales price, if sold within the first year following classification;
- 9 percent, if sold within the second year following classification;
- 8 percent, if sold within the third year following classification;
- 7 percent, if sold within the fourth year following classification;
- 6 percent, if sold within the fifth year following classification;
- 5 percent, if sold within the sixth year following classification;
- 4 percent, if sold within the seventh year following classification;
- 3 percent, if sold within the eighth year following classification;
- 2 percent, if sold within the ninth year following classification; and

- 1 percent, if sold within the tenth year following classification.

No conveyance tax is imposed by §§ 12-504a to 12-504f, following the end of the tenth year after the classification date.

### ***Farm or forest land***

Any land classified as farm land pursuant to § 12-107c or forest land pursuant to § 12-107d is subject to a conveyance tax, provided the land is sold or transferred within 10 years from the earlier of the time the owner acquired title to the land or first classified the land. The conveyance tax is in addition to the taxes imposed under §§ 12-494 to 12-504, and is at the following rates:

- 10 percent of the total sales price, if sold within the first year of ownership;
- 9 percent, if sold within the second year;
- 8 percent, if sold within the third year;
- 7 percent, if sold within the fourth year;
- 6 percent, if sold within the fifth year;
- 5 percent, if sold within the sixth year;
- 4 percent, if sold within the seventh year;

- 3 percent, if sold within the eighth year;
- 2 percent, if sold within the ninth year; and
- 1 percent, if sold within the tenth year of ownership.

No conveyance tax is imposed by §§ 12-504a to 12-504f following the end of the record owner's tenth year of ownership. See § 12-504b for additional details regarding the conveyance tax on open-space, forest and farm land.

### ***Exceptions to the tax***

The tax provided by § 12-504a does not apply to the following:

- transfers resulting from eminent domain proceedings;
- mortgage deeds;
- deeds to or by the United States, Connecticut, or any of its political subdivisions or agencies;
- strawman deeds and deeds that "correct, modify, supplement or confirm" a previously recorded deed;
- generally, deeds between spouses or parent and child, if no consideration is received;
- tax deeds;



- foreclosure deeds;
  
- partition deeds;
  
- deeds pursuant to a corporate merger;
  
- deeds by a subsidiary to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
  
- property transferred as a result of death, if no consideration is received;
  
- deeds to any corporation, trust or other entity, of land to be held for educational, scientific, aesthetic or other similar passive uses, provided the entity has received a determination from the Internal Revenue Service that contributions to it are deductible;
  
- land subject to a covenant in the deed to refrain from selling, transferring, or developing the land in a manner inconsistent with its classification as farm land, forest land, open-space land, or, effective July 1, 2007, maritime heritage land for a period of not less than eight years from the transfer date;
  
- land, the development rights to which have been sold to the state under chapter 422a; and
  
- deeds to or from any limited liability company if the grantors or grantees are the same individuals as the principals or members of the company.

As of October 1, 2014, for any change of ownership enumerated above except foreclosure deeds, the 10-year period provided under § 12-504a is not affected by the date of such change of ownership and is measured as follows:

- for land classified as farm land or forest land, the period is measured from the earlier of the date on which the land was so classified or the date on which the transferor acquired title to the land; and
- for land classified as open space land or maritime heritage land, the period is measured from the date on which the land was so classified.

## **TAX ON TRANSFER OF CONTROLLING INTEREST IN AN ENTITY THAT OWNS REAL PROPERTY**

Connecticut imposes tax on the sale or transfer of a controlling interest in any entity that possesses an interest in Connecticut real property, provided the value of the property is at least \$2000, payable by the transferor, at the rate of 1.11 percent of the property's value. The tax does not apply to the following transfers:

- the transfer of a controlling interest in an entity that possesses an interest in real property located in any municipality designated as an enterprise zone; or
- a transfer of an entity's controlling interest to change its identity or form of ownership or organization, provided there is no change in ownership.

Section 12-504c amended 2014; § 12-504b amended 1974; § 12-504a amended 2014.

[Conn. Gen. Stat. §§ 12-504a, -504b, -504c \(2019\)](#)

## Connecticut, Party Required to Pay Tax

### **TRANSFER TAX**

The transfer tax is imposed on the person conveying the property.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1982.

[Conn. Gen. Stat. § 12-495 \(2019\)](#)

## Connecticut, Transfer Tax Amount

### **STATE TAX**

Connecticut imposes a transfer tax on each deed, instrument or writing conveying realty, provided the consideration for the transfer is at least \$2000. Subject to the provisions of § 12-494(b), the tax rate is:

- pursuant to § 12-494(a)(1), 0.75 percent of the consideration, provided the amount is remitted to the Commissioner of Revenue Services for deposit in the state General Fund; and
- pursuant to § 12-494(a)(2), 0.25 percent of the consideration, provided the amount becomes a part of the general revenue of the municipality in accordance with § 12-499. (Note that the statutory provision that included a .11-percent tax on and after July 1, 2011, was deleted in 2011.)

Effective July 1, 2011, § 12-494(b) provides that the following tax rates apply, instead of the 0.75 percent general tax rate imposed under § 12-494(a)(1), to the following conveyances:

- if conveyed real property, except unimproved land, is used for any purpose other than residential use, the state portion of the tax is 1.25 percent of the consideration;
- prior to July 1, 2020, if the conveyed real property is a residential estate for which the consideration is \$800,000 or more, the state portion of the tax under § 12-494(a)(1) is 0.75

percent on the first \$800,000, and 1.25 percent on the portion of the consideration exceeding \$800,000; and

- on and after July 1, 2020, if the conveyed real property is a residential estate (i) at the rate of 1.25 percent on that portion of such consideration in excess of \$800,000 up to and including \$2.5 million, and (ii) at the rate of 2.25 percent on that portion of such consideration in excess of \$2.5 million; and
- if the conveyed real property is property on which mortgage payments have been delinquent for at least six months and is conveyed to the financial institution that holds the delinquent mortgage, the state portion of the tax is 0.75 percent of the consideration.

"Unimproved land" includes "farm, forest or open space land."

### **CITY OR COUNTY TAX**

A targeted investment community or a municipality in which certain manufacturing plants are located may, on and after March 15, 2003, impose an additional tax on each deed, instrument or writing transferring realty, provided the consideration is at least \$2000. The rate of the additional tax is a rate of up to 0.25 percent of the consideration.

Section amended 2019.

[Conn. Gen. Stat. § 12-494](#) (as amended by [2019 Conn. Pub. Act 19-117, § 337](#))

## Delaware

### Delaware, Earmarked Use for Tax

### **TRANSFER TAX**

The transfer tax received under subchapter I is allocated as follows:

- 75 percent, to the Division of Revenue; and
- 25 percent to the State Treasurer to be deposited in a special fund for distribution to municipalities and counties.

The State Treasurer must distribute the proceeds it receives among the counties and municipalities according to the allocations set forth in § 5415, subject to the minimum amounts and other allocations described in detail in § 5415. The counties and municipalities may use the funds for any purpose, provided that receipt of the funds does not cause the recipients to be considered agencies.

On or before December 15 of each fiscal year, the State generally must annually transfer \$1 million of realty transfer taxes to the Infrastructure Account, which is maintained within Delaware's Conservation Trust Fund. However, this provision is waived for the fiscal year ending on June 30, 2018. See 81 Del. Laws, ch. 59, § 10.

Also, Delaware's Open Space Program is generally funded by a transfer of \$9 million of realty transfer taxes into the Endowment Account on or before December 15 of each fiscal year. However, this provision was waived for the fiscal year ending on June 30, 2018. See 81 Del. Laws, ch. 59, § 10.

Del. Code tit. 30, § 5426 requires the state to transfer \$10 million in receipts received under Chapter 54 of Title 30 to the Farmland Preservation Fund.

### ***Kent County***

Revenues from a tax upon the transfer of real property derived from an ordinance adopted by Kent County must first be applied to Kent County's cost component of the Statewide Paramedic Funding Program.

### ***Municipalities***

Municipal real estate transfer tax funds must be segregated from the municipality's general fund and the tax funds, and all interest thereon, must be "expended solely for the capital and operating costs of public safety services, economic development programs, public works services, capital projects and improvements, infrastructure projects and improvements and debt reduction."

### **MORTGAGE RECORDATION TAX**

No specifically applicable provisions were located.

The county recorder's \$5 surcharge is allocated as follows:

- 95 percent to the Housing Development Fund; and
- five percent as compensation for the recorder's expenses incurred collecting and remitting the surcharge.

The additional \$25 fee is earmarked as follows:

- 99 percent to the Delaware Cultural Access Fund; and
- one percent to the respective county governments to cover costs associated with collecting and remitting the fee.

Section 5415 enacted 1987; § 9607 amended 2016; chapter 292 enacted 2014; § 5423 amended 2017; § 5426 amended 2015; § 8102 amended 2018; § 1601 enacted 1998.

[Del. Code tit. 9, §§ 8102, 9607; tit. 22, § 1601; tit. 30, §§ 5415, 5423, 5426 \(2020\)](#)

[Delaware, Exemptions from Tax](#)

## **TRANSFER TAX**

The following are not considered a "document" subject to the tax:

- a will;
- certain leases;
- a mortgage;
- a conveyance between corporations operating certain housing projects and their shareholders;
- a conveyance from a nonprofit industrial development agency to an industrial corporation;
- a conveyance to a nonprofit industrial development agency;
- a conveyance between husband and wife;
- a conveyance between persons who were previously husband and wife, but who have divorced, provided the conveyance is made after the final decree and the real estate was acquired before the final decree;
- a conveyance between parent and child or his spouse;
- a conveyance to a trustee, nominee or straw party for the grantor;

- a conveyance for the beneficial ownership of a person other than the grantor if no tax would be imposed if the person were the grantee;
- a conveyance from a trustee, nominee or straw party to the beneficial owner;
- a conveyance between a parent and its wholly-owned subsidiary corporation, without consideration;
- correctional deeds without consideration;
- a conveyance to or from the United States, Delaware, an instrumentality, agency or political subdivision of either, or the University of Delaware;
- certain conveyances to or from a corporation or other entity, where the grantor or grantee owns stock or an interest in the same proportion as the grantor's or grantee's interest in the real estate being conveyed;
- a conveyance by the owner of previously occupied residential premises to a builder of new residential premises, if the premises are taken in trade by the builder as a part of the consideration for the new premises;
- a conveyance to the lender pursuant to a foreclosure sale or in lieu of foreclosure;
- certain conveyances to a religious organization, if such real estate will not be used for any commercial purpose;
- certain conveyances to or from a volunteer fire company;
- the conveyance of a mobile home;



- a conveyance without consideration to an organization exempt under § 501(c)(3) of the Internal Revenue Code;
- a conveyance to a nonprofit conservation organization if the property is purchased for open space preservation;
- a conveyance to or from an organization exempt under § 501(c)(3) of the Internal Revenue Code, if the conveyance provides owner-occupied housing to low and moderate income households without profit;
- a conveyance between siblings, half-siblings, or step-siblings;
- the actual value of the property being transferred is less than \$100;
- a document entered into before July 7, 1973; or
- any conveyance to or from a land bank formed under Del. Code tit. 31, ch. 47.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Sections amended 2018.

[Del. Code tit. 30, §§ 5401, 5402\(b\) \(2020\)](#)

Delaware, Mortgage Recordation Tax Amount

## **INITIAL MORTGAGE**

No specifically applicable provisions were located.

The county recorder may require the payment of fees for recording an instrument "as soon as he shall have noted the date of reception on such instrument." Also, the county recorder must collect, for each document or paper recorded or filed, a surcharge of \$5 for the Housing Development Fund and an additional \$25 fee for the Delaware Cultural Access Fund.

**Exception:** If a county, by ordinance, waives county recording fees for common interest communities or civic associations, the recorder for that county may not collect the surcharge of \$5.00 or fee of \$25 for any document or paper recorded or filed by a common interest community or civic association.

## **REFINANCED MORTGAGE**

No specifically applicable provisions were located.

Section amended 2016.

[Del. Code tit. 9, § 9607 \(2020\)](#)

### **Delaware, Other Relevant Provisions**

No other relevant provisions were located.

### **Delaware, Party Required to Pay Tax**

## **TRANSFER TAX**

The tax imposed by § 5402(a) is apportioned equally between the grantor and the grantee. However, § 5412 provides that "[a]s between the parties to any transaction which is subject to the

realty transfer tax imposed by this subchapter, in the absence of an agreement to the contrary, the burden for paying the tax shall be on the grantor.”

### ***Additional tax***

The owner of a building whose construction is subject to tax under § 5401(8) must pay the additional tax assessed pursuant to § 5401(8).

### ***Municipal and county transfer tax***

A municipal or county real estate transfer tax is to be paid by the transferor or transferee as determined by the municipality or county by ordinance.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 5402 amended 2018; § 5412 amended 1966; § 1601 enacted 1998; § 8102 amended 2018.

[Del. Code tit. 9, § 8102; tit. 22, § 1601; tit. 30, §§ 5402, 5412 \(2020\)](#)

### **Delaware, Transfer Tax Amount**

### **STATE TAX**

#### ***§ 5402(a) tax***

A person who makes, executes, delivers, accepts or presents for recording any document, except those set forth in § 5401(4), must pay a realty transfer tax. The tax rate is as follows:

- three percent of the property value, unless the municipality or county where the property is located has enacted the full 1.5 percent realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9; and
- 2.5 percent, if the municipality or county where the property is located has enacted the full 1.5 percent realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9.

For any first-time home buyer who enters into a transaction, on or after August 1, 2017, who would otherwise be subject to the the above tax rate, the portion of the tax payable by the first-time home buyer is reduced by an amount equal to .5 percent multiplied by the lesser of the value of the property or \$400,000. This reduction applies to the grantee's portion of the transfer tax and does not relieve the grantor from payment of the grantor's portion of the tax. A "first-time home buyer" means:

- "[a] natural person who has at no time held any direct legal interest in residential real estate, wherever located, and who intends to occupy the property being conveyed as his or her principal residence within 90 days following the transaction";
- "[s]pouses purchasing as joint tenants or tenants by the entirety, when neither spouse has ever held any direct legal interest in residential real estate, wherever located, and both of whom intend to occupy the property being conveyed as their principal residence within 90 days following the transaction"; and
- "[i]ndividuals purchasing as joint tenants or cotenants, when none of the individuals has ever held any direct legal interest in residential real estate, wherever located, and both of whom intend to occupy the property being conveyed as their principal residence within 90 days following the transaction."

### **§ 5402(d) tax**

Every person who makes, executes, delivers, accepts or presents for recording any document set forth in § 5401(4), must pay a realty transfer tax. The tax rate is three percent of the property value, unless the municipality or county in which the property is located has enacted the full 1.5 percent

realty transfer tax authorized by § 1601 of Title 22 or § 8102 of Title 9, in which case the tax is 2.5 percent.

Section 5401(4) documents include those evidencing:

- a transfer of a title or possessory interest for a term of more than five years in a condominium unit or a property subject to the Unit Property Act;
- a transfer a title or possessory interest of any lessee or other person in possession of real estate owned by Delaware or one of its political subdivisions;
- an assignment or transfer of a leasehold or possessory interest in residential property under a lease with a term of more than five years.

### ***Additional tax***

Delaware asserts an additional tax on certain documents described in § 5401(8), which includes agreements for the construction of a building either:

- before the date the land on which the building is to be constructed is transferred; or
- within one year from the date of the transfer to the grantee.

The tax rate is two percent of the amount exceeding \$10,000.

### **CITY OR COUNTY TAX**

Each Delaware county government may by ordinance impose and collect a tax, to be paid by the transferor or transferee as determined by the county, upon the transfer of real property within the unincorporated areas of the county which tax may not exceed 1.5 percent of the value of the real property as represented by the document transferring the property. The county must exempt from such taxation "first time home buyers", as defined above, up to at least the value of the property or \$400,000 whichever is less; The county may increase the exemption amount.

Any Delaware municipality may by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by the municipality, upon the transfer of real property within the municipality, which tax may not exceed 1.5 percent of the value of the real property as represented by the document transferring the property.

All sections amended 2018, except § 1601 enacted 1998.

[Del. Code tit. 9, § 8102; tit. 22, § 1601; tit. 30, §§ 5401, 5402 \(2020\).](#)

## District of Columbia

### District Of Columbia, Earmarked Use for Tax

#### **TRANSFER TAX**

##### *Chapter 42 tax*

All funds collected under chapter 42 are deposited in the General Fund of the District of Columbia; "provided, that" 15 percent of the amount collected is deposited into the Housing Production Trust Fund.

##### *Chapter 47 tax*

All funds collected under chapter 47 are deposited in the District's General Fund, except:

- 15 percent is deposited into the Housing Production Trust Fund; and

- 85 percent of the amounts collected from specified property (Lots 836, 837 and 855 in Square 37) is deposited in the West End Library and Fire Station Maintenance Fund.

## **MORTGAGE RECORDATION TAX**

The mortgage recordation tax is generally allocated in the same manner as the transfer tax.

Section 42-1122 amended 2004; § 47-919 amended 2011; § 42-1103 amended 2019; § 47-903 amended 2019.

[D.C. Code §§ 42-1103, -1122; 47-903, -919 \(2020\)](#)

## District Of Columbia, Exemptions from Tax

### **TRANSFER TAX**

#### *Chapter 42 tax*

The following are exempt from the tax imposed by chapter 42:

- a deed to property acquired by the United States, unless its taxation has been authorized by Congress or the District of Columbia;
- certain deeds to property acquired by an institution, organization, corporation, or government entitled to exemption from real property taxation;
- a purchase money mortgage or purchase money deed of trust that is recorded simultaneously with the deed conveying the real property for which the mortgage or purchase money deed of trust was obtained;

- a supplemental deed;
- a deed between a husband and wife, parent and child, grandparent and grandchild, or domestic partners without consideration;
- a tax deed;
- a release of property that is security for a debt;
- a deed of a decedent's personal representative to a distributee, without consideration;
- a permanent loan deed of trust or mortgage that is submitted for record and the tax on the construction loan deed of trust or mortgage was timely paid, unless the liability secured by the permanent loan deed of trust or mortgage exceeds the liability secured by the construction loan deed of trust or mortgage, in which case the tax is calculated on the difference;
- to property transferred to a qualifying lower income homeownership household;
- to property transferred to a qualifying nonprofit housing organization;
- to property transferred to a cooperative housing association;
- certain construction loan deeds of trust or mortgages or permanent loan deeds of trust or mortgages;
- a conveyance of an economic interest in improved residential real property owned by a cooperative housing association;



- a transfer “that conveys bare legal title to the trustee of a revocable trust, without consideration for the transfer,” if the transferor is the trust’s beneficiary;
- a transfer to a beneficiary of a revocable trust as the result of the grantor’s death;
- a transfer by a revocable trust’s trustee if the transfer would otherwise be exempt if made by the grantor;
- a transfer to a resident management corporation;
- certain security instruments on Class 1 Property that contains no more than five dwelling units;
- a deed to property transferred pursuant to § 29-204.06;
- a deed for the District of Columbia Correctional Treatment Facility;
- a deed conveying an interest in certain real property in Square 454;
- certain deeds conveying an interest in Square 299, Lot 831, in connection with debt or equity financing for the Mandarin Oriental Hotel Project until the sponsor sells the project;
- a deed executed pursuant to a divorce or maintenance decree or pursuant to a written instrument incident to divorce or separation;
- a deed to certain entities of a lease or ground rent for a term of at least 30 years;

- a deed to residential real property, without consideration, to the trustee of a special needs trust for a trust beneficiary who has a disability, or from the trustee of a special needs trust that terminates upon the trust beneficiary's death;
- a "security interest instrument securing a credit enhancement" issued by a for-profit business organization, if the credit enhancement is required in connection with certain affordable housing financing programs;
- a security interest instrument pertaining to a cooperative housing association or a limited-equity cooperative;
- a deed to property to which there is a valid certification by the Mayor that both the property and transferee are eligible for exemption from real property taxation pursuant to § 47-1005.02 (unless waived by regulation, a copy of the certification must accompany the deed when it is submitted for recording);
- a security interest instrument executed by a borrower in connection with a loan under the Industrial Revenue Bond Forward Commitment Program (unless waived by regulation, a certification by the Mayor that the security interest instrument is entitled to this exemption must accompany the security interest instrument when it is presented for recording);
- a deed to property transferred to a named beneficiary of a revocable transfer on death deed upon the grantor's death; and
- deeds to property transferred between the electric company and the District.

Sections 42-1102 and 42-1103 are subject to frequent temporary amendments.

See regulations 601, 609, and 611 for details of other exempt transactions similar to those listed above.

## *Chapter 47 tax*

The following transfers are exempt from the tax imposed by chapter 47:

- a transfer by the United States of America or the District of Columbia governments, unless Congress has authorized its taxation;
- a transfer of certain real property by an institution, organization, corporation, or government receiving a valid real property tax exemption;
- a transfer between spouses, parent and child, grandparent and grandchild, or domestic partners, without consideration;
- a transfer evidenced by a deed of release of property that is security for a debt or other obligation;
- a transfer that secures a debt or other obligation;
- a transfer that, without additional consideration, confirms, corrects, modifies, or supplements a transfer that was previously recorded;
- a transfer to a qualifying lower income homeownership household or a qualifying nonprofit housing organization;
- a transfer to a cooperative housing association;
- a transfer of bare legal title into a revocable trust, without consideration, if the transferor is the trust's current beneficiary;

- a transfer of property to a revocable trust's named beneficiary by reason of the grantor's death;
- a transfer of property by a revocable trust's trustee, if the transfer would otherwise be exempt if made by the grantor;
- a transfer to a resident management corporation;
- a transfer of certain property to an entity according to § 29-204.06 or other specifically identified real property;
- a personal representative's deed to a distributee, without additional consideration, to a decedent's real property or a life estate in real property;
- a transfer pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to a divorce or separation;
- a transfer by certain entities of a lease or ground rent for a term (including renewals) that is for a term of at least 30 years;
- a transfer of residential real property, without consideration, to the trustee of a special needs trust established for the benefit of a trust beneficiary who has a disability, or from the trustee of a special needs trust that, by its terms, terminates upon the death of the trust beneficiary with a disability;
- a transfer of property to a qualifying low- or moderate-income household pursuant to the Inclusionary Zoning Program;
- a transfer of real property to the District of Columbia, without consideration, at the request of the District of Columbia, and conveyed as a bona fide gift to the District;

- a transfer of property to which there is a valid certification by the Mayor that both the property and transferor are eligible for exemption from property taxation pursuant to § 47-1005.02, if, unless waived by regulation, a copy of the certification accompanies the deed at the time it is submitted for recording;
- a transfer of property to a named beneficiary of a revocable transfer on death deed upon the grantor's death; and
- a transfer of real property between the electric company and the District.

## **MORTGAGE RECORDATION TAX**

All security interest instruments that qualify for exemption under § 42-1102, as listed above, are exempt from the recordation tax. A sale or assignment of a note, mortgage, deed of trust, or other instrument from one lender to another, on the secondary market, is exempt from the tax, provided there are no changes in the terms and the borrower has taken no action to refinance.

Statutory section 42-1102.01 amended 1994; § 42-1103 amended 2019; § 42-1102 amended 2018; § 47-902 amended 2017; regulations 601 and 609 promulgated 1980; r. 604 amended 1990; r. 611 amended 2007.

[D.C. Code §§ 42-1102, -1102.01, -1103; 47-902 \(2020\); D.C. Mun. Regs., tit. 9, §§ 601, 604, 609, 611 \(2020\)](#)

## District Of Columbia, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

The District of Columbia imposes a tax on each security interest instrument that is submitted for recordation. The tax rate is generally 1.1 percent of the total debt that is secured by the real property interest.

Section 42-1103 is subject to frequent temporary amendments.

## **REFINANCED MORTGAGE**

If an existing debt is refinanced, the recording tax is applied only to the principal amount of the new debt that exceeds the principal balance due on the existing debt that was previously subject to the tax, if the tax on the existing debt was timely and properly paid.

Section amended 2019.

[D.C. Code § 42-1103 \(2020\)](#)

## District Of Columbia, Other Relevant Provisions

No other relevant provisions were located.

## District Of Columbia, Party Required to Pay Tax

## **TRANSFER TAX**

### *Chapter 42 tax*

The parties to a deed submitted for record are jointly and severally liable for the taxes imposed by § 42-1103, except that neither the United States nor the District of Columbia is jointly and severally liable with the transferee. If a deed evidences a transfer of an economic interest in a cooperative housing association, the cooperative housing association is jointly and severally liable with the parties to the deed for the payment of taxes imposed by § 42-1103 regardless of whether the association itself is a party to the deed.

Section 42-1103 is subject to frequent temporary amendments.

### *Chapter 47 tax*

The transferor is responsible for paying the taxes imposed by chapter 47. However, if the transferor fails to pay the tax, the transferee is jointly and severally liable with the transferor, except that neither the United States nor the District governments are jointly and severally liable with the transferor.

### **MORTGAGE RECORDATION TAX**

The parties to a deed submitted for record are jointly and severally liable for the taxes imposed by § 42-1103, except that neither the United States nor the District of Columbia is jointly and severally liable with the transferee.

Section 47-903 amended 2019; § 42-1103 amended 2019.

[D.C. Code §§ 42-1103; 47-903 \(2020\)](#)

## District Of Columbia, Transfer Tax Amount

### **STATE TAX**

#### *Chapter 42 tax*

The District of Columbia imposes a tax on the transfer of real property. The tax rate is generally 1.1 percent of the consideration for the property conveyed, unless there is no or nominal consideration for the transfer, in which case the rate is applied to the property's fair market value. A deed that "evidences a transfer of an economic interest in real property" is generally taxed at 2.9 percent of the consideration allocable to the property. However, beginning October 1, 2009, a transfer of an economic interest in a cooperative housing association that is in connection with a grant, transfer, or assignment of a proprietary leasehold or other proprietary interest where the consideration allocable to the real property is less than \$400,000, the tax rate is 2.2 percent.

Beginning October 1, 2019, a deed that evidences a transfer of an economic interest in real property any part of which is classified as Class 2 Property under D.C. Official Code § 47-813 (except for a deed solely transferring an economic interest relating to a residential unit within a cooperative

housing association), is taxed at the rate of 5.0 percent of the consideration allocable to the real property if the value of the consideration allocable to the real property is \$2 million or more. A deed is considered to evidence a transfer of an economic interest in Class 2 Property "if any portion of the building or structure in which the interest in real property being transferred by the deed is located is classified as Class 2 Property, regardless of whether that portion is transferred in the deed, if, prior to the execution of the deed, the majority ownership of the economic interest being transferred by the deed and a portion of the building or structure that is classified as Class 2 Property was common (whether direct or indirect)."

Except for residential properties transferred by deed of title for less than \$400,000, an additional tax of .35 percent is imposed on a deed that is subject to the tax under subsection 42-1103(a)(1). Beginning October 1, 2019, another additional tax of 1.05 percent is imposed upon a:

- deed that is subject to the tax under subsection 42-1103(a)(1) if it transfers real property (or an interest in real property) any part of which is classified as Class 2 Property under [§ 47-813](#) and the taxed or imputed consideration for the deed is \$2 million or more; or
- security interest instrument that is subject to the tax under subsection 42-1103(a)(3) if it encumbers real property any part of which is classified as Class 2 Property under [§ 47-813](#) and secures a debt of \$2 million or greater and only to the extent any part thereof exceeds an exemption from taxation under chapter 42-11.

Beginning October 1, 2017, for eligible property purchased by a first-time District homebuyer, the rate of tax provided in § 42-1103 is reduced, provided, that the statutory requirements are met, with the entire benefit of the reduced recordation tax rate allocated to the grantees of the eligible property, as shown on the settlement statement or closing disclosure form:

- to 0.725 percent for a deed of title; or
- for an economic interest in a cooperative unit: (a) to 1.825 percent when consideration allocable to the real property is less than \$400,000; or (b) to 2.175 percent when consideration allocable to the real property is \$400,000 or greater.



See § 42-1103(a)(1)(B) for detailed provisions relating to the transfer tax on leases for a term of at least 30 years.

The statutory provision that previously permitted the tax imposed on commercial property to be increased annually by the Chief Financial Officer, has been repealed.

Section 42-1103 is subject to frequent temporary amendments.

#### *Chapter 47 tax*

The District also imposes a deed transfer tax at the time a deed is submitted to the Mayor for recording. The tax is generally equal to 1.1 percent of the consideration paid for the transfer. If there is no consideration or if the amount is nominal, the rate is applied to the property's fair market value.

Beginning October 1, 2006, except for residential properties transferred by deed of title for less than \$400,000, an additional tax of .35 percent is imposed. Beginning October 1, 2019, an additional tax of 1.05 percent, in addition to the additional .35 percent tax, is imposed upon a deed that is subject to the tax under subsection 47-903(a)(1) if:

- the deed transfers real property (or an interest in real property) any part of which is classified as Class 2 Property; and
- the taxed or imputed consideration for such deed is \$2 million or more.

#### **CITY OR COUNTY TAX**

No applicable provisions were located.

Statutory section 42-1103 amended 2019; § 47-903 amended 2019; regulation amended 2009.

[D.C. Code §§ 42-1103, 47-903 \(2020\)](#); [D.C. Mun. Regs., tit. 9, § 602 \(2020\)](#)

## Florida

### Florida, Earmarked Use for Tax

#### **TRANSFER TAX**

Effective July 1, 2015, all taxes collected under chapter 201 are first made available to make payments when due on bonds issued pursuant to § 215.618 or § 215.619, or any other bonds authorized to be issued on a parity basis with those bonds.

All taxes collected under chapter 201, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections 201.15(1) and 201.15(2), are subject to a service charge, and, before distributing the funds, the Department of Revenue must deduct the amounts necessary to pay tax collection and enforcement costs. All collection and enforcement costs and the service charge must "be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017," that are secured by the revenues distributed pursuant to those distributions.

The taxes remaining after deducting costs are distributed as follows:

- amounts necessary to make payment on bonds issued pursuant to §§ 215.618 or 215.619 (or on any other bonds authorized to be issued on a parity basis with those bonds) are deposited into the Land Acquisition Trust Fund, if the amounts deposited are less than 33 percent of all taxes collected after first deducting the costs of collection, 33 percent of all taxes collected after first deducting collection costs, minus the amounts deposited pursuant to subsection 201.15(1) must be deposited into the Land Acquisition Trust Fund);
- amounts deposited in the Land Acquisition Trust Fund are allocated as follows:

- payment of debt service or funding debt service funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds, provided the amount does not exceed \$300 million each fiscal year;
- payment of debt service, providing service reserve funds, paying rebate obligations or other amounts due with respect to Everglades restoration bonds;
- the remainder is allocated to the credit of the State Transportation Trust Fund in the amount of the lesser of 24.18442 percent of the remainder or \$541.75 million in each fiscal year; of those funds, \$75 million for each fiscal year and is transferred to the General Revenue Fund; the remainder is to be used for capital funding for the New Starts Transit Program (10 percent); for the Small County Outreach Program (10 percent); for the Strategic Intermodal System (75 percent after allocating for the New Starts Transit Program and the Small County Outreach Program); and for the Transportation Regional Incentive Program (25 percent after allocating for the New Starts Transit Program and the Small County Outreach Program; the first \$60 million will be allocated annually to the Florida Rail Enterprise); and
- between the lesser of .1456 percent of the remainder or \$3.25 million each fiscal year for the Grants and Donations Trust Fund in the Department of Economic Opportunity, to fund technical assistance to local governments;
- 11.24 percent of the remainder in each fiscal year must be paid to the State Housing Trust Fund; of those funds, the first \$35 million must be transferred annually, subject to any required distribution, to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity; half of the remainder must be used for the purposes for which the State Housing Trust Fund was created and half to the Local Government Housing Trust Fund to be used for the purposes for which the Local Government Housing Trust Fund was created;
- 12.93 percent of the remainder in each fiscal year must be paid to the State Housing Trust Fund; of those funds, the first \$40 million must be transferred annually, subject to any other required distribution, to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity; the remainder must be used as follows: 12.5 percent to the State Housing Trust Fund to be expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation and 87.5 percent to the Local Government Housing Trust Fund, which amounts may also be used to provide services to assist the homeless; and

- the lesser of .017 percent of the remainder or \$300,000 each fiscal year is credited to the General Inspection Trust Fund, to be used to fund oyster management and restoration programs.

Distributions to the State Housing Trust Fund pursuant to § 202.15(4)(c) and (d) must generally be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to § 420.5092(6)(a) and (b).

Any taxes remaining after the distributions provided above are paid into the state General Revenue Fund.

The revenue from any discretionary surtax on documents, must be allocated as follows, after deducting administrative costs:

- no less than 35 percent to provide homeownership assistance for low-income and moderate-income families; and
- no less than 35 percent for construction, rehabilitation, and purchase of rental housing units.

The remaining amount may be allocated to provide for homeownership assistance or rental housing units, at the county's discretion.

### **MORTGAGE RECORDATION TAX**

Mortgage recording taxes appear to be allocated in the same manner as the transfer taxes.

Statutory section 125.0167 amended 2009; § 201.15 amended 2017; regulation amended 2009.

## Florida, Exemptions from Tax

### **TRANSFER TAX**

Taxes imposed by § 201.02 do not apply to the following:

- a disposition or document that arises out of a transfer of real property from a nonprofit organization to the Internal Improvement Trust Fund, to any state agency, water management district, or local government;
- a conveyance between spouses or former spouses pursuant to a marriage dissolution action, provided the real property was their marital home;
- a deed or other instrument that transfers or conveys homestead property or any interest in homestead property from one spouse to another, from one spouse to both spouses, or from both spouses to one spouse, if the only consideration for the transfer or conveyance is the amount of a mortgage or other lien encumbering the homestead property at the time of the transfer or conveyance; or
- a contract to sell the residence of an employee relocating at his employer's direction.

Florida regulations also provide that the following conveyances are generally not subject to tax:

- the reconveyance of realty conveyed to secure a debt upon payment of the debt;
- a conveyance of unencumbered realty as a gift;
- a conveyance made to correct a deficiency in a previous deed on which the tax has been paid;

- a deed given by a personal representative in accordance with the terms of a will;
- a deed from an agent to his principal conveying real estate purchased for and with the principal's funds;
- a partition deed, unless for consideration some of the parties take shares greater in value than their undivided interest;
- leases in which the consideration is the lessee's promise to pay rent in the future;
- transfers by the United States or its agencies, in which case, unless the instrument is exempt by any state or federal law, the required tax is the responsibility of the non-exempt party;
- a conveyance from a bank, savings and loan association, or other mortgagee to federal agency pursuant to a guaranty;
- a conveyance between governmental agencies;
- a conveyance exempted by United States Code;
- certain quit claim deeds from a buyer to a seller for failure to make payments under a contract for deed;
- a judgment and decree in an eminent domain proceeding;
- a transfer conveying property from a nonprofit organization to any state agency, water management district, or local government; and

- certain transfers in bankruptcy.

The documentary stamp tax applies when the beneficial ownership of real property is transferred to a new owner or owners by the use of techniques that apply transfers of ownership of, or distributions from, artificial entities. However, this tax on transactions by conduit entities does not apply to:

- a gift of an ownership interest in a conduit entity, if there is no consideration;
- the transfer of shares or similar equity interests in a conduit entity that are traded on public, regulated security exchanges or markets; or
- the transfer for purposes of estate planning by a natural person of an interest in a conduit entity to an irrevocable grantor trust.

Effective July 1, 2010, the taxable consideration for a short sale transfer does not include the unpaid debt that is forgiven or released by the mortgagee.

### **MORTGAGE RECORDATION TAX**

The mortgage recording tax does not apply to the following:

- a modification to a document that does not modify the debt terms;
- a promissory note given to renew an existing promissory note, provided the note only extends or continues the identical contractual obligations of the original note without enlarging the original contract;

- a mortgage evidencing a promissory note that would not be subject to taxation pursuant to § 201.09(1);
- a note given to renew an adjustable rate note or mortgage that has an initial interest rate adjustment interval of not less than 6 months, except that the note is subject to tax to the extent of any accrued interest upon which taxes have not previously been paid;
- an obligation to pay money issued by a municipality, political subdivision, or agency of the state; or
- a disposition or document that arises out of a rental, lease, or lease-purchase for real property entered into pursuant to § 1013.15(2) or (4).

Fla. Admin. Code Ann. r. 12B-4.054 also includes the following exemptions related to real property:

- generally, notes given pursuant to a wholesale warehouse mortgage agreement, but “only when the amount of tax due on or in respect to the collateral obligation(s) given as security has been paid”;
- a mortgage assignment by a lender to a new lender who has purchased the note and mortgage and becomes the holder of the note and mortgage is not taxable, unless the assignment is given as collateral security for a new loan, in which case it is a taxable mortgage;
- a contract for the sale of land that contains no “written obligation to pay money”;
- a lot purchase contract rescinded by the purchaser within the stated time period is not “written obligations to pay money” and not subject to tax;
- a contract for the purchase and sale of Florida real property, provided the contract was made and delivered in other states and sent to Florida for collection purposes only;



- an obligation executed by the United States or its agencies, or by Florida or its counties, municipalities, political subdivisions or agencies;
- lease purchase agreements, agreements for sale, contracts for deeds, notes and mortgages securing a promise to pay money to an industrial development authority or the Florida Housing Finance Corporation by a private entity in connection with the issuance of certain bonds; or
- certain mortgages or trust deeds given pursuant to a plan confirmed by the federal bankruptcy court.

Statutory section 201.08 amended 2005; § 201.24 amended 2002; § 201.09 amended 1998; § 201.02 amended 2019; § 201.0201 enacted 2009; regulations amended 2013.

[Fla. Stat. §§ 201.0201, .02](#) (as amended by [Fla. Laws 2019-42, § 4](#)), [.08, .09, .24 \(2019\)](#); [Fla. Admin. Code r. 12B-4.054, .014 \(2020\)](#)

## Florida, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

The tax on all recorded mortgages, trust deeds, security agreements, or other evidences of debt, or a renewal of such document, is \$0.35 cents on each \$100 (or fraction thereof) of the debt.

### **REFINANCED MORTGAGE**

No specifically applicable provisions located. However, Florida statutes exempt certain renewal promissory notes and related mortgages from taxation. Generally, a promissory note given to renew an existing promissory note is not subject to the tax only if the renewal note:

- only extends or continues the original note's identical contractual obligations;

- evidences at least part of the original debt;
- does not enlarge the original contract and obligation;
- is not executed by anyone other than the original obligor; and
- renews and extends only the unpaid balance of the original contract and obligation.

A renewal note that increases the unpaid balance of the original contract and obligation but otherwise meets the above exemption criteria is taxable only on the increased amount. If a mortgage or trust deed secures a promissory note that would not be subject to taxation pursuant to the above criteria, the mortgage or trust deed is not subject to taxation under chapter 201.

A renewal that modifies the terms of the debt by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms is taxable.

Section 201.08 amended 2005; § 201.09 amended 1998.

[Fla. Stat. §§ 201.08, .09 \(2020\)](#)

## Florida, Other Relevant Provisions

No other relevant provisions were located.

## Florida, Party Required to Pay Tax

### **TRANSFER TAX**

The purchaser must pay the transfer tax imposed by § 201.02(1).

## **MORTGAGE RECORDATION TAX**

Florida statutes do not appear to specify which party must pay the mortgage recording tax.

Section amended 2019.

[Fla. Stat. § 201.02\(1\) \(2019\)](#)

## Florida, Transfer Tax Amount

### **STATE TAX**

Section 201.02 of Florida statutes levies a tax on deeds, instruments, or writings conveying real property. The tax rate is \$0.70 for each \$100 of consideration, including any obligations discharged and any mortgages or other encumbrances. See Fla. Admin. Code r. 12B-4.052 for detailed provisions regarding the computation of the tax amount, including a provision that sets the maximum tax due on an obligation that satisfies the requirements of § 201.09(1) at \$2450.

However, note that a \$0.10 increase in the documentary stamp tax does not apply to deeds relating to real property located in any county that has implemented the provisions of chapter 83-220. Therefore, in those counties, the state tax is presumably \$0.60 for each \$100.

When real property is conveyed to a conduit entity and all or some of the grantor's direct or indirect ownership interest in the conduit entity is transferred for consideration during the next three years, a tax is imposed on each transfer of an interest in the conduit entity at the rate of \$0.70 cents for each \$100 or fraction thereof. In this context, "conduit entity" means "a legal entity to which real property is conveyed without full consideration by a grantor who owns a direct or indirect interest in the entity, or a successor entity."

The taxable consideration for a short sale transfer does not include the unpaid debt that is forgiven or released by the mortgagee.

### **CITY OR COUNTY TAX**

Subject to § 125.0167, each county may levy a discretionary surtax on documents taxable under § 201.02, except that no surtax is permitted on a document conveying an interest involving only a single-family residence. All provisions of chapter 201, except § 201.15 (involving allocation), apply to the surtax.

As mentioned above, the \$0.10 tax increase in the documentary stamp tax does not apply to “deeds and other taxable instruments relating to real property located in any county that has implemented the provisions of chapter 83-220.” Those counties may not participate in programs funded pursuant to § 201.15(4)(c), but may participate in programs funded pursuant to § 201.15(4)(d).

Statutory section 201.01 amended 2007; § 201.02 amended 2019; § 201.031 amended 2009; § 201.0205 amended 2015; regulation amended 2003.

[Fla. Stat. §§ 201.02, .0205, .031 \(2019\)](#); [Fla. Admin. Code Ann. r. 12B-4.052 \(2020\)](#); *see also* [Fla. Stat. § 201.01 \(2019\)](#)

## Georgia

### Georgia, Earmarked Use for Tax

#### **TRANSFER TAX**

The clerk of the superior court is entitled to a fee of \$0.50 for each deed document with respect to which a tax is required to be paid, which fee withheld from the funds received in payment of the tax and remitted to the commissioner. The withheld fees are distributed as follows:

- if the clerk is paid a salary, the withheld funds must be paid into the county’s treasury; and
- if the clerk is not paid a salary, the withheld funds are retained by the clerk as compensation.

The revenues are then distributed as provided for the intangible recording tax, as described below.

The collecting officer retains six percent of the tax collected as compensation for his or her tax-collection services.

## **MORTGAGE RECORDATION TAX**

The intangible recording tax imposed by § 48-6-61 is

divided among the state and all other tax jurisdictions and districts . . . which levy or cause to be levied for their benefit a property tax on real and tangible personal property having the same taxable situs as the real property which is the subject of the intangible tax. The distribution shall be made according to the proportion that the millage rate levied for the state and each other tax jurisdiction or district respectively bears to the total millage rate levied for all purposes applicable to real and tangible personal property having the same taxable situs as the subject of the intangible tax. The revenue distributed to municipalities having independent school systems supported by taxes levied by the municipality shall be divided between the municipality and the independent school system according to the proportion that the millage rate levied by the municipality for nonschool purposes and the millage rate levied for school purposes bear to the total millage rate levied by the municipality for all purposes. The tax levied by this article shall be deemed to be levied by the participating tax authorities in the proportion that the millage rate of each participating tax authority bears to the aggregate millage rate of all the participating tax authorities.

Sections 48-6-5 and 48-6-8 amended 2003; § 48-6-72 amended 1997; § 48-6-73 amended 2012.

Ga. Code §§ 48-6-5, -8, -72, -73 (LexisNexis 2020)

## [Georgia, Exemptions from Tax](#)

### **TRANSFER TAX**

The tax imposed by § 48-6-1 does not apply to the following:

- an instrument given to secure a debt;
- a gift;

- a deed or other writing to which the United States, Georgia, an agency or subdivision of either, a public authority, or a nonprofit public corporation is a party;
- a lease of "lands, tenements, standing timber, or other realty";
- a transfer of real estate between a husband and wife in connection with a divorce;
- an order for a year's support awarding an interest in real property;
- a deed issued in lieu of foreclosure, if the deed is for a purchase money deed to secure a debt that has existed and been recorded for at least 12 months before the deed in lieu of foreclosure is recorded;
- a deed from the debtor at a foreclosure sale;
- the transfer of certain property acquired for transportation purposes;
- a deed that returns property sold at a tax sale back to the defendant "in fi. fa";
- a deed of assent or distribution by an executor, administrator, guardian, trustee, or custodian, provided the transfer is without valuable consideration;
- a deed or other writing that divides real property among joint tenants or tenants in common, provided the transaction does not involve any consideration other than the division; or
- a transfer from one individual owner to or from a corporation or other entity, if the owner also has a majority ownership interest in the corporation or entity to which the property is transferred.

## **MORTGAGE RECORDATION TAX**

Generally, no tax other than as provided for in article 3 must be paid on any instrument that is an extension, transfer, assignment, modification, or renewal of, or that only adds additional security to, an original debt secured by an instrument subject to the tax imposed by § 48-6-61 if:

- the tax as provided by article 3 has been paid on the original security instrument, provided, however, that the tax required by § 48-6-61 is due on any portion of the instrument which is an additional advance of indebtedness secured by a previously recorded instrument, without regard to whether the original security instrument has been assigned; or
- the original instrument or the holder of the original instrument was exempt from the tax set forth in § 48-6-61.

Section 48-6-65 amended 2018; § 48-6-2 amended 2015.

Ga. Code §§ 48-6-2, -65 (LexisNexis 2020)

## **Georgia, Mortgage Recordation Tax Amount**

### **INITIAL MORTGAGE**

Georgia imposes on each mortgage an "intangible recording tax" at the rate of \$1.50 for each \$500 (or fraction thereof) of the face amount of the note secured by the security instrument. The maximum amount of any intangible recording tax payable with respect to any single note is \$25,000.

### **REFINANCED MORTGAGE**

No tax is imposed on a new instrument securing a long-term note secured by real estate, if the original lender refinanced the unpaid principal on the previous instrument securing a long-term note secured by real estate, provided:

- all intangible recording tax was paid on the prior instrument or the previous instrument was exempt from the intangible recording tax; and
- either the new instrument states or the new instrument's holder submits an affidavit identifying which part of the face amount represents a refinancing of unpaid principal on the previous instrument.

However, the tax required by § 48-6-61 is due on any portion of the instrument which is an additional advance of indebtedness secured by a previously recorded instrument, without regard to whether the original security instrument has been assigned.

Sections 48-6-61 and 48-6-62 amended 1995; § 48-6-65 amended 2018.

Ga. Code §§ 48-6-61, -62, -65 (LexisNexis 2020)

## Georgia, Other Relevant Provisions

No other relevant provisions were located.

## Georgia, Party Required to Pay Tax

### **TRANSFER TAX**

Either the person who executes the deed, instrument, or other writing or the person for whose use or benefit the deed, instrument, or other writing is executed must pay the tax imposed by § 48-6-1.

### **MORTGAGE RECORDATION TAX**

The collecting officer collects the tax due on the security instrument from the instrument's holder, but the holder may pass the tax on to the borrower or mortgagor.



Section 48-6-61 amended 1995; § 48-6-3 amended 1978.

Ga. Code §§ 48-6-3, -61 (LexisNexis 2020)

## Georgia, Transfer Tax Amount

### **STATE TAX**

Georgia imposes a tax on each deed, instrument, or other writing by which sold realty is conveyed, if the consideration or value (excluding any liens or encumbrances) is greater than \$100. The tax rate is:

- \$1.00 for the first \$1,000 (or part thereof); and
- \$0.10 for each additional \$100.00 (or part thereof).

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 1998.

Ga. Code § 48-6-1 (LexisNexis 2020)

## Guam

### Guam, Earmarked Use for Tax

No applicable provisions were located.

### Guam, Exemptions from Tax

No applicable provisions were located.

## Guam, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

Any mortgage or pledge of land, an estate, or property that is made as security for the repayment of money and any conveyance of land, an estate, or property that is to be sold or otherwise converted into money and that is intended only as security, is assessed a tax of \$2.50 on each \$1,000 (or part thereof). Each assignment or transfer of a mortgage is taxed at the same rate as was imposed on the original document, except that the tax is \$20 on an assignment or transfer of any "mortgage, lease, or renewal or continuance of any agreement or contract by altering" made within 60 days of the mortgage on which the full fees were assessed.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended and reenacted 2008.

[Guam Code tit. 11, § 20104 \(2019\)](#)

### Guam, Other Relevant Provisions

No other relevant provisions were located.

### Guam, Party Required to Pay Tax

No applicable provisions were located.

### Guam, Transfer Tax Amount

### **TERRITORY TAX**

The tax on all conveyances, deeds, or instruments that sell, grant, transfer, or otherwise convey land or other realty is \$2.50 for each \$1,000 (or fraction thereof) on the "true consideration or value received for such realty." In sales of encumbered property, the tax is collected on the net consideration after deducting the encumbrance amount.

## **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2007.

[Guam Code tit. 11, § 20101 \(2019\)](#)

## **Hawaii**

### **Hawaii, Earmarked Use for Tax**

## **TRANSFER TAX**

As of July 1, 2015, taxes collected under chapter 247 are deposited each fiscal year into the general fund, except as follows:

- the lesser of 10 percent or \$6,800,000 into the land conservation fund; and
- the lesser of 50 percent or \$38,000,000 into the rental housing trust fund.

## **MORTGAGE RECORDATION TAX**

The special mortgage recording fee is deposited into a hurricane reserve trust fund.

Section 431P-16 amended 2011; § 247-7 amended 2015.

[Haw. Rev. Stat. §§ 247-7; 431P-16 \(2019\)](#)

## Hawaii, Exemptions from Tax

### TRANSFER TAX

The tax imposed by section 247-1 does not apply to the following documents or instruments:

- that are executed before January 1, 1967;
- given to secure a debt or obligation;
- that only confirm or correct a deed or other previously recorded or filed document;
- between husband and wife, reciprocal beneficiaries, or parent and child, with only nominal consideration;
- in which the consideration is \$100 or less;
- executed pursuant to a sale agreement, provided that the taxes have been fully paid;
- in which the United States, its agencies or instrumentalities, Hawaii, or its agencies, instrumentalities, or subdivisions are the only parties;
- executed pursuant to a tax sale conducted by the United States or Hawaii, or an agency, instrumentality, or subdivision of either for delinquent taxes or assessments;
- conveying real property to the United States, Hawaii, or an agency, instrumentality, or subdivision of either pursuant to the exercise of eminent domain;
- that convey or grant an easement;

- pursuant to which certain owners partition their property;
- between marital partners or reciprocal beneficiaries who are parties to a divorce action or termination of a reciprocal beneficiary relationship;
- from a testamentary trust to the trust's beneficiary;
- conveying property from a grantor to the grantor's revocable living trust, or from a grantor's revocable living trust to the grantor as the trust's beneficiary;
- conveying real property from an entity that is a party to certain mergers or consolidations to a surviving or new entity;
- conveying real property from a dissolving limited partnership to its corporate general partner that owns at least a 90 percent interest in the partnership; or
- conforming to the transfer on death deed.

## **MORTGAGE RECORDATION TAX**

No relevant provisions were located.

Section amended 2011.

[Haw. Rev. Stat. § 247-3 \(2019\)](#)

[Hawaii, Mortgage Recordation Tax Amount](#)

## **INITIAL MORTGAGE**

Chapter 431P establishes a special mortgage recording fee to fund a hurricane reserve fund. The special fee is imposed on each recorded or filed mortgage and mortgage amendment that increases the principal amount of the secured debt. The special mortgage recording fee is equal to 0.1 percent of the principal amount of the secured debt, unless the board establishes a lower special mortgage recording fee.

See WCHR § 16-178-3 for details regarding the calculation of the special mortgage recording fee.

### **REFINANCED MORTGAGE**

In the case of an amendment or refinancing of a mortgage, the special mortgage recording fee is 0.1 percent of the amount of the increase of the principal amount of the secured debt.

Statutory section amended 2011; regulation amended 1998.

[Haw. Rev. Stat. § 431P-16 \(2019\)](#); [Haw. Code R. § 16-178-3 \(2020\)](#)

### **Hawaii, Other Relevant Provisions**

No other relevant provisions were located.

### **Hawaii, Party Required to Pay Tax**

### **TRANSFER TAX**

The grantor must pay the tax imposed by chapter 247. However, if the United States, Hawaii, or an agency, instrumentality or subdivision of either is the grantor, the grantee must pay the tax.

### **MORTGAGE RECORDATION TAX**

Hawaii statutes do not specify which party must pay the special mortgage recording fee.

Section amended 1968.

[Haw. Rev. Stat. § 247-4 \(2019\)](#)

## Hawaii, Transfer Tax Amount

### **STATE TAX**

Hawaii imposes a tax on all realty transfers or conveyances. The tax is based on the full consideration paid, including any liens or encumbrances. The tax rate for most transfers is as follows:

- 10 cents per \$100 for properties with a value of less than \$600,000;
- 20 cents per \$100 for properties with a value of at least \$600,000, but less than \$1 million;
- effective July 1, 2009, 30 cents per \$100 for properties with a value of at least \$1 million, but less than \$2 million;
- effective July 1, 2009, 50 cents per \$100 for properties with a value of at least \$2 million, but less than \$4 million;
- effective July 1, 2009, 70 cents per \$100 for properties with a value of at least \$4 million, but less than \$6 million;
- effective July 1, 2009, 90 cents per \$100 for properties with a value of at least \$6 million, but less than \$10 million; and
- effective July 1, 2009, \$1 per \$100 for properties with a value of \$10 million or more.

For the sale of a condominium or single-family residence for which the purchaser is not eligible for a county homeowner's exemption on property tax, the tax rate is as follows:

- 15 cents per \$100 for properties with a value of less than \$600,000;
- 25 cents per \$100 for properties with a value of at least \$600,000, but less than \$1 million; and
- effective July 1, 2009, 40 cents per \$100 for properties with a value of at least \$1 million, but less than \$2 million;
- effective July 1, 2009, 60 cents per \$100 for properties with a value of at least \$2 million, but less than \$4 million;
- effective July 1, 2009, 85 cents per \$100 for properties with a value of at least \$4 million, but less than \$6 million;
- effective July 1, 2009, \$1.10 per \$100 for properties with a value of at least \$6 million, but less than \$10 million; and
- effective July 1, 2009, \$1.25 per \$100 for properties with a value of \$10 million or more.

For leases or subleases, chapter 247 applies only to a lease or sublease whose full unexpired term is five years or more. In those cases, the tax is based on "the cash value of the lease rentals discounted to present day value and capitalized at the rate of six per cent, plus the actual and full consideration paid or to be paid for any and all improvements." The tax imposed for each transaction may be no less than \$1.

#### **CITY OR COUNTY TAX**



No applicable provisions were located.

Section 247-1 amended 1985; § 247-2 amended 2009.

[Haw. Rev. Stat. §§ 247-1, -2 \(2019\)](#)

## Idaho

### Idaho, Earmarked Use for Tax

No applicable provisions were located.

### Idaho, Exemptions from Tax

No applicable provisions were located.

### Idaho, Mortgage Recordation Tax Amount

No applicable provisions were located. However, recording fees apply to instruments recorded with the county recorder.

Section amended 2018.

See [Idaho Code § 31-3205 \(2019\)](#)

### Idaho, Other Relevant Provisions

No other relevant provisions were located.

### Idaho, Party Required to Pay Tax

No applicable provisions were located.

### Idaho, Transfer Tax Amount

No applicable provisions were located. H.B. 532, 58th Leg., 2d Reg. Sess. (Idaho 2006), which would have provided that voters in a county could authorize a residential real estate transfer tax in that county, did not pass into law.

## Illinois

### Illinois, Earmarked Use for Tax

#### **TRANSFER TAX**

The transfer tax funds are allocated as follows:

- 50 percent to the Illinois Affordable Housing Trust Fund;
- 35 percent to the Open Space Lands Acquisition and Development Fund; and
- 15 percent to the Natural Areas Acquisition Fund.

All amounts (less collection costs) collected by the City of Chicago as a supplemental tax pursuant to 65 Ill. Comp. Stat. 5/8-3-19 must be provided to the Chicago Transit Authority. Amounts collected by all other municipalities may be collected and expended for any purpose.

#### **MORTGAGE RECORDATION TAX**

No specifically applicable provisions were located. However, effective March 22, 2013, the additional \$1.00 per document filing fee is allocated as follows:

- fifty cents deposited into the County General Revenue Fund; and
- fifty cents deposited into the Recorder's Automation Fund.

See *Mortgage Recordation Tax Amount* for information regarding distribution following transition to fixed recording fees.

Section 31-35 amended 2003; § 8-3-19 amended 2008; § 4-12002 amended 2018; § 3-5018 amended 2018.

[35 Ill. Comp. Stat. 200/31-35; 55 Ill. Comp. Stat. 5/3-5018, /4-12002; 65 Ill. Comp. Stat. 5/8-3-19\(i\) \(2020\)](#)

## Illinois, Exemptions from Tax

### **TRANSFER TAX**

The following deeds are exempt from the transfer tax:

- a transfer made before January 1, 1968, but recorded after that date;
- a deed by or from a governmental body, between governmental bodies, or acquired by or from an entity organized and operated exclusively for charitable, religious or educational purposes;
- a deed that secures debt or other obligation;
- a deed, without consideration, that confirms, corrects, modifies, or supplements a previously recorded deed;
- a deed in which the actual consideration is less than \$100;
- a tax deed;
- a deed that releases property that is security for a debt;
- a partition deed;

- a deed made pursuant to a merger, consolidation, transfer or sale of the assets of a corporation under a reorganization plan under the Federal Internal Revenue Code or Title 11 of the Federal Bankruptcy Act;
- a deed by a subsidiary to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
- certain exchanges of real estate if there is an actual exchange of beneficial interests;
- a deed issued to a mortgage holder pursuant to a mortgage foreclosure proceeding or transfer in lieu of foreclosure; or
- the purchase of a principal residence by a participant in the Home Ownership Made Easy Act program.

See Ill. Admin. Code tit. 86, § 120.20 (2019) for an extensive list of additional exempt transactions.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section amended 2017; regulation effective 2004.

[35 Ill. Comp. Stat. 200/31-45 \(2020\); Ill. Admin. Code tit. 86, § 120.20 \(2020\)](#)

Illinois, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the county recorder collects a recording fee on deeds and other instruments. The fee varies in amount, based on the type of document and its length. Effective March 22, 2013, the recorder also charges an additional fee of \$1 per document for all documents not filed by a governmental unit or school district.

Pursuant to 2017 legislation, counties had until January 1, 2019 to "adopt and implement, by ordinance or resolution, a predictable fee schedule that eliminates surcharges or fees based on the individual attributes of a standard document to be recorded," such fees to include "all county and State fees that the county may elect or is required to impose or adjust, including, but not limited to, GIS fees, automation fees, document storage fees, and the Rental Housing Support Program State surcharge." The aggregate fee for deeds and the aggregate fee for mortgages may not be less than \$21 (being a minimum \$12 county fee plus \$9 for the Rental Housing Support Program State surcharge).

Similarly, pursuant to 2018 legislation, third class counties have until January 1, 2020 to "adopt and implement, by ordinance or resolution, a predictable fee schedule that eliminates surcharges or fees based on the individual attributes of a standard document to be recorded," such fees to include "all county and State fees that the county may elect or is required to impose or adjust, including, but not limited to, GIS fees, automation fees, document storage fees, and the Rental Housing Support Program State surcharge." The aggregate fee for deeds and the aggregate fee for mortgages may not be less than \$29 (being a minimum \$20 county fee plus \$9 for the Rental Housing Support Program State surcharge).

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section 3-5018 amended 2018; § 3-5018.1 enacted 2017; § 4-12002 amended 2018; § 4-12002.1 enacted 2018.

[55 Ill. Comp. Stat. 5/3-5018, -5018.1; /4-12002, -12002.1 \(2020\)](#)

### **Illinois, Other Relevant Provisions**

No other relevant provisions were located.

## Illinois, Party Required to Pay Tax

### **TRANSFER TAX**

Illinois statutes do not appear to designate which party must pay the transfer tax.

The local supplemental transfer tax may be "on the buyer or seller of real estate, or jointly and severally on both."

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2008.

[65 Ill. Comp. Stat. 5/8-3-19 \(2020\)](#)

## Illinois, Transfer Tax Amount

### **STATE TAX**

Illinois imposes a tax on the privilege of transferring

- a real estate title,
- beneficial interest in real property located in Illinois, and
- a controlling interest in a real estate entity that owns property in Illinois.

The tax rate is \$0.50 for each \$500 of value (or fraction thereof). If the real estate, beneficial interest or controlling interest is transferred subject to a mortgage, the amount of the mortgage outstanding at the time of transfer is not included in the basis of computing the tax. The tax is due if the transfer

- is made by one or more related transactions,
- involves one or more parties, and
- is or is not recorded.

### **CITY OR COUNTY TAX**

The state tax imposed by § 31-10 is in addition to all other privilege taxes imposed by any municipal corporation or political subdivision.

Subject to the conditions set forth in 65 Ill. Comp. Stat. Ann. 5/8-3-19, a home rule municipality may impose a transfer tax or increase its existing transfer tax. Generally, a municipality may impose a new real estate transfer tax only with prior approval by referendum, but a municipality with a population greater than 1,000,000 may increase or impose a transfer tax by ordinance adopted without a referendum. The new or increased tax may not exceed \$1.50 for each \$500 of value (or fraction thereof). The tax must be "for the sole purpose of providing financial assistance to the Chicago Transit Authority."

Chicago imposes a transfer tax equal to \$3.75 for each \$500 of the purchase price. The city has also imposed a supplemental tax of \$1.50 per \$500 of the price (or fraction thereof) on transfers occurring on or after April 1, 2008, for financial assistance to the Chicago Transit Authority. Cook County also imposes a tax of \$.25 per \$500 of the selling price.

Statutory section 31-10 amended 2005; § 31-65 enacted 1967; § 8-3-19 amended 2008; municipal code section amended 2011; county ordinance amended 2014.

[35 Ill. Comp. Stat. 200/31-10, -65](#); [65 ILCS 5/8-3-19 \(2020\)](#); *see also* Chicago, Ill., Code 3-33-030 (2019); Cook County, Ill., Code of Ordinances 74-102 (2019)

## Indiana

### Indiana, Earmarked Use for Tax

No provisions specifically applicable to a transfer or mortgage recording tax were located.

However, counties must deposit the \$55 fee collected for recording mortgages as follows:

- \$34 in the county general fund;
- \$5 in the county surveyor's corner perpetuation fund;
- \$11.50 in the county recorder's records perpetuation fund;
- \$2.50 with the county treasurer to be distributed in accordance with §§ 24-9-9-3 and 24-9-9-4;
- \$1.00 in the county identification security protection fund; and
- \$1.00 in the county elected officials training fund.

For counties that collect the additional per-page fee because at least one unit in the county has established an affordable housing fund or because the county contains a consolidated city that has established a housing trust, those amounts must be distributed as follows:

- for a county other than one containing a consolidated city, 60 percent to the units in the county that have established an affordable housing fund (based on the population of the unit) and 40 percent to the state treasurer for deposit in the affordable housing and community development fund; and



- for a county containing a consolidated city that has established a housing trust fund, 60 percent to the housing trust fund and 40 percent to the state treasurer for deposit in the affordable housing and community development fund.

The \$2 county identification security protection fee is deposited as follows:

- \$1.00 in the county identification security protection fund; and
- \$1.00 in the county elected officials training fund.

Section 36-2-7.5-6 amended 2017; § 36-2-7-10 amended 2018.

[Ind. Code §§ 36-2-7-10; -7.5-6 \(2019\)](#)

### Indiana, Exemptions from Tax

No applicable provisions were located.

### Indiana, Mortgage Recordation Tax Amount

#### **ORIGINAL MORTGAGE**

No applicable provisions were located, although Indiana does require the county recorder to charge and collect recording fees as follows:

- \$55 for recording any mortgage;
- \$25 for recording any deed or other instrument, other than a mortgage;

- for pages larger than 8½ x 14 inches, \$25 for the first page and \$5 for each additional page of any document recorded; and
- if the county recorder has elected to attest to the release, partial release or assignment of any mortgage, judgment, lien, or oil and gas lease contained in a multiple-transaction document, the fee for each transaction after the first is \$7, plus the \$25 fee for recording any deed or other instrument, other than a mortgage.

A county may charge an additional fee if:

- at least one unit in the county has established an affordable housing fund and the county adopts an ordinance authorizing a \$10 additional fee for each document recorded; or
- the county contains a consolidated city that has established a housing trust fund and the county adopts an ordinance authorizing a \$2.50 fee for the first page and \$1.00 fee for each additional page of each recorded document or adopts an ordinance authorizing a \$10 fee for each recorded document.

The county recorder must also charge a \$2 county identification security protection fee for recording or filing a document.

## **REFINANCED MORTGAGE**

No applicable provisions were located. However, for purposes of the \$55 mortgage recordation charge, a "mortgage" does not include:

- a mortgage modification;
- a mortgage assignment; or

- a mortgage release.

Sections 36-2-7.5-6 and 36-2-7.5-11 amended 2017; § 36-2-7-10 amended 2018; § 36-2-7-10.7 enacted 2017.

See [Ind. Code §§ 36-2-7-10, -10.7; -7.5-6, -11 \(2019\)](#)

### Indiana, Other Relevant Provisions

No other relevant provisions were located.

### Indiana, Party Required to Pay Tax

No applicable provisions were located.

### Indiana, Transfer Tax Amount

No applicable provisions were located.

## Iowa

### Iowa, Earmarked Use for Tax

#### **TRANSFER TAX**

As amended in 2008, Iowa law provides that 82.75 percent of the state's transfer tax is allocated to the state treasurer, who must deposit the funds as follows:

- for the fiscal year beginning July 1, 2009, 90 percent to the general fund, five percent to the housing trust fund, and five percent to the shelter assistance fund;
- for the fiscal year beginning July 1, 2010, 85 percent to the general fund, 10 percent to the housing trust fund, and five percent to the shelter assistance fund;
- for the fiscal year beginning July 1, 2011, 80 percent to the general fund, 15 percent to the housing trust fund, and five percent to the shelter assistance fund;

- for the fiscal year beginning July 1, 2012, 75 percent to the general fund, 20 percent to the housing trust fund, and five percent to the shelter assistance fund;
- for the fiscal year beginning July 1, 2013, 70 percent to the general fund, 25 percent to the housing trust fund, and five percent to the shelter assistance fund; and
- for the fiscal year beginning July 1, 2014, and each succeeding fiscal year, 65 percent to the general fund, 30 percent to the housing trust fund, and five percent to the shelter assistance fund; provided that the amount transferred to the housing trust fund in any one fiscal year may not exceed \$3 million (with any excess transferred to the state's general fund).

The remaining 17.25 percent of the transfer tax amount is allocated to the county general fund.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2020 (non-substantive change).

[Iowa Code § 428A.8 \(2020\)](#)

[Iowa, Exemptions from Tax](#)

### **TRANSFER TAX**

The tax imposed by chapter 428A does not apply to:

- a sale contract pursuant to which the vendee takes possession, or any assignment or cancellation of the contract;

- a mortgage or mortgage assignment, extension, partial release, or satisfaction;
- a will;
- a plat;
- a lease;
- a deed or writing in which the grantor is the United States, Iowa, or an agency, instrumentality, or subdivision of either or a deed or writing in which the governmental unit is the grantee or assignee if there is no consideration;
- a cemetery lot;
- a deed that secures a debt or other obligation, "except those included in the sale of real property";
- a release of a security interest in property, except "those pertaining to the sale of real estate";
- a deed that, without additional consideration, confirms, corrects, modifies, or supplements a previously recorded deed;
- a deed between husband and wife, or parent and child, without consideration;
- a tax deed;

- a partition deed without consideration;
- a deed resulting from a corporate or limited liability company merger, consolidation, or reorganization;
- a deed between a family corporation or entity and its stockholders, partners, or members, transferring real property in an incorporation, organization, or dissolution of the entity, provided there is no consideration other than shares or debt securities of the entity;
- a deed between former spouses pursuant to a marriage dissolution decree;
- a deed transferring easements;
- a deed in lieu of foreclosure;
- a deed executed by public officials performing their official duties;
- a deed transferring assets to heirs or devisees;
- a transfer in which the consideration is \$500 or less; or
- a deed that is not subject to taxation by the state under state or federal law.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section 428A.2 amended 1996; § 428A.13 amended 1981; regulatory chapter amended 2009.

[Iowa Code §§ 428A.2, .13 \(2019\); Iowa Admin. Code 701-79.2 \(428A\) \(2019\)](#)

## Iowa, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the county recorder collects a nominal filing fee based on the document's length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2013.

[Iowa Code § 331.604 \(2020\)](#)

## Iowa, Other Relevant Provisions

No other relevant provisions were located.

## Iowa, Party Required to Pay Tax

### **TRANSFER TAX**

The grantor is liable for the transfer tax, except that a public official is not liable for the tax with respect to an instrument executed in his official capacity.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1981.

[Iowa Code § 428A.3 \(2020\)](#)

## Iowa, Transfer Tax Amount

### **STATE TAX**

Iowa imposes a state transfer tax on each deed, instrument, or writing pursuant to which realty is transferred or conveyed. The tax rate is as follows:

- no tax, if no consideration or if the deed or writing corrects the title;
- \$0.80 per \$500 (or part thereof), if the consideration or actual market value exceeds \$500.

The consideration amount includes any encumbrances or liens that the grantee assumes.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2020 (non-substantive changes).

[Iowa Code § 428A.1 \(2020\)](#)



## Kansas

### Kansas, Earmarked Use for Tax

#### **TRANSFER TAX**

No applicable provisions were located.

#### **MORTGAGE RECORDATION TAX**

Kansas formerly imposed a mortgage registration tax on the recording of any real property mortgage or its renewal or extension. However, effective July 1, 2014, Kansas began phasing out the tax, and the applicable statutory section was repealed as of January 1, 2019.

The tax noted above has been replaced with the document recording fees set forth in Kan. Stat. § 28-115.

Section amended 2014.

[Kan. Stat. § 28-115 \(2019\)](#)

### Kansas, Exemptions from Tax

#### **TRANSFER TAX**

No applicable provisions located.

#### **MORTGAGE RECORDATION TAX**

Kansas formerly imposed a mortgage registration tax on the recording of any real property mortgage or its renewal or extension. However, effective July 1, 2014, Kansas began phasing out the tax, and the applicable statutory section was repealed as of January 1, 2019.

The tax noted above has been replaced with the document recording fees set forth in Kan. Stat. § 28-115.

Section amended 2014.

[Kan. Stat. § 28-115 \(2019\)](#)

## Kansas, Mortgage Recordation Tax Amount

Kansas formerly imposed a mortgage registration tax on the recording of any real property mortgage or its renewal or extension. However, effective July 1, 2014, Kansas began phasing out the tax, and the applicable statutory section was repealed as of January 1, 2019.

The tax noted above has been replaced with the document recording fees set forth in Kan. Stat. § 28-115.

Section amended 2014.

[Kan. Stat. § 28-115 \(2019\)](#)

## Kansas, Other Relevant Provisions

No other relevant provisions were located.

## Kansas, Party Required to Pay Tax

### **TRANSFER TAX**

No applicable provisions were located.

### **MORTGAGE RECORDATION TAX**

Kansas formerly imposed a mortgage registration tax on the recording of any real property mortgage or its renewal or extension. However, effective July 1, 2014, Kansas began phasing out the tax, and the applicable statutory section was repealed as of January 1, 2019.

The tax noted above has been replaced with the document recording fees set forth in Kan. Stat. § 28-115.

Section amended 2014.

[Kan. Stat. § 28-115 \(2019\)](#)

## Kansas, Transfer Tax Amount

No applicable provisions were located.

## Kentucky

### Kentucky, Earmarked Use for Tax

#### **TRANSFER TAX**

The transfer tax is allocated as follows:

- five percent to the county clerk as a collection fee; and
- the balance to the county general fund.

#### **MORTGAGE RECORDATION TAX**

The taxes provided by § 142.010 are allocated as follows:

- five percent to the county clerk as a commission; and

- the remainder to the state treasury.

Section 142.015 amended 2005; § 142.050 amended 2014.

[Ky. Rev. Stat. §§ 142.015, .050\(4\) \(2020\)](#)

## Kentucky, Exemptions from Tax

### **TRANSFER TAX**

The tax imposed by § 142.050 does not apply to the following deeds:

- recorded before March 27, 1968;
- to, in the event of a gift or deed with nominal consideration, or from the United States, Kentucky, or any Kentucky city, county, or subdivision;
- solely to provide or release security;
- that confirms or corrects a previously recorded deed;
- between husband and wife;
- between former spouses as part of a divorce proceeding;
- for a sale for delinquent taxes or assessments;

- on partition;
- pursuant to a merger or consolidation of corporations, partnerships, limited partnerships, or limited liability companies;
- pursuant to any conversion of a partnership or other specified entity into a partnership, limited partnership, corporation, or limited liability company;
- between a subsidiary and its parent corporation for nominal or no consideration or in sole consideration of the cancellation or surrender of either corporation's stock;
- under a foreclosure proceeding or pursuant to a "voluntary surrender under a mortgage in lieu of a foreclosure proceeding";
- between a person and a corporation, partnership, limited partnership or limited liability company, in an amount equal to the proportionate interest of the transferor in the entity to which the property was transferred, if the transfer was for nominal consideration;
- between parent and child or grandparent and grandchild, with only nominal consideration;
- by a corporation or other specified entity to a person as owner or shareholder, upon the entity's dissolution, in an amount proportionate to the interest of the person to whom the property was transferred, if the transfer was for nominal consideration;
- between a trustee and his successor;
- between a limited liability company and any of its members; or
- certain transfers to a trustee or from a trustee to a trust beneficiary.

The term "deed" does not include a lease or easement.

### **MORTGAGE RECORDATION TAX**

No relevant provisions were located.

Section amended 2014.

[Ky. Rev. Stat. § 142.050\(7\) \(2020\)](#)

### Kentucky, Mortgage Recordation Tax Amount

#### **INITIAL MORTGAGE**

Kentucky imposes a tax of \$4 on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title.

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2006.

[Ky. Rev. Stat. § 142.010\(1\)\(c\) \(2020\)](#)

### Kentucky, Other Relevant Provisions

No other relevant provisions were located.

## Kentucky, Party Required to Pay Tax

### **TRANSFER TAX**

The grantor must pay the transfer tax set forth in § 142.050.

### **MORTGAGE RECORDATION TAX**

Kentucky statutes do not specify who must pay the mortgage recording tax.

Section amended 2014.

[Ky. Rev. Stat. § 142.050\(2\) \(2020\)](#)

## Kentucky, Transfer Tax Amount

### **STATE TAX**

A state realty transfer tax is imposed at the rate of \$0.50 for each \$500 (or fraction thereof) of consideration or value, including the amount of any liens. Kentucky also imposes a tax of \$4 on each real property conveyance.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section 142.010 amended 2006; § 142.050 amended 2014.

[Ky. Rev. Stat. §§ 142.010\(1\)\(d\), .050\(2\) \(2020\)](#)

## Louisiana

### Louisiana, Earmarked Use for Tax

No applicable provisions were located.

### Louisiana, Exemptions from Tax

No applicable provisions were located.

### Louisiana, Mortgage Recordation Tax Amount

No applicable provisions located. However, Louisiana does impose a standard, per page recording fee for documents presented for record.

Section amended 2017.

See [La. Rev. Stat. § 13:844 \(2019\)](#)

### Louisiana, Other Relevant Provisions

No other relevant provisions were located.

### Louisiana, Party Required to Pay Tax

No applicable provisions were located.

### Louisiana, Transfer Tax Amount

The Louisiana constitution prohibits the levy of new taxes or fees upon the sale or transfer of immovable property, including documentary transaction taxes or fees, by the state or any of its political subdivisions after November 30, 2011. "Fees for the cost of recordation, filing, or maintenance of documents, or records effectuating the sale or transfer of immovable property, impact fees for development of property, annual parcel fees, and ad valorem taxes shall not be considered taxes or fees upon the sale or transfer of immovable property."

Amendment passed 2011.

See [La. Const. art. VII, § 2.3.](#)



## Maine

### Maine, Earmarked Use for Tax

#### **TRANSFER TAX**

The transfer tax is allocated as follows:

- 90 percent to the State Tax Assessor; and
- 10 percent to the county as reimbursement for services rendered.

The State Tax Assessor must pay all net receipts to the Treasurer of State. In fiscal year 2015-16 and each fiscal year thereafter, the Treasurer of State must allocate the revenues from § 4641-A(1) as follows:

- on a monthly basis, apply 50 percent of the revenues from § 4641-A(1) as follows: first, to the Maine State Housing Authority, which must deposit the funds in the Maine Energy, Housing and Economic Recovery Fund, until the amount paid equals the amount certified by the Maine State Housing Authority as necessary to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, § 4864; then, any remaining revenues to the General Fund; and
- on a monthly basis, apply 50 percent of the revenues to the Maine State Housing Authority, except that the Treasurer must first credit \$6,291,740 of the revenues to the General Fund, except that in fiscal years 2017-18 and 2018-19, the Treasurer must first credit \$2,500,000 of the revenues to the General Fund. The Maine State Housing Authority must deposit the funds received in the Housing Opportunities for Maine Fund created in Title 30-A, § 4853.

#### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2020.

[Me. Rev. Stat. tit. 36, § 4641-B](#) (as amended by [2020 Me. Pub. L. ch. 607](#))

## Maine, Exemptions from Tax

### **TRANSFER TAX**

The following deeds are exempt from the transfer tax:

- certain deeds to or by the United States or Maine or any subdivision of either;
- mortgage deeds, discharges, and partial releases, except only the mortgagor is exempt from the tax imposed for a deed in lieu of foreclosure;
- deeds to a third party at a public sale, in which case the tax imposed by § 4641-A applies only to that portion of the sale proceeds that exceeds the amount necessary to satisfy the claims of the mortgagee and all junior claimants;
- for a transfer from a mortgagee or its servicer to the mortgagee or its servicer, or to the owner of the mortgage debt at a public sale, the mortgagee or its servicer (if the servicer is the selling entity) is considered to be both the grantor and grantee;
- for a deed in lieu of foreclosure and a deed from a mortgagee or its servicer to the mortgagee or its servicer, or to the owner of the mortgage debt at a public sale, the tax applies to the property's value;
- documents that, without adding consideration or changing ownership, confirm, correct, modify or supplement a previously recorded deed;

- deeds between spouses, parent and child, or grandparent and grandchild, without actual consideration;
- deeds between spouses in a divorce proceeding;
- tax deeds;
- certain partition deeds without consideration;
- deeds pursuant to mergers or consolidations of certain business entities, provided no gain or loss is recognized under the Internal Revenue Code;
- deeds by a subsidiary to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
- deeds dated or acknowledged before October 1, 1975;
- deeds by a parent to its subsidiary corporation for no consideration other than shares of the subsidiary's stock;
- distributions made pursuant to Title 18-A or 18-B;
- deeds executed by public officials in their official capacity;
- deeds given pursuant to the Bankruptcy Code;
- deeds to a trustee, nominee or straw party for the grantor as beneficial owner;

- deeds “for the beneficial ownership of a person other than the grantor,” provided that if that person were the grantee, no tax would be imposed;
- deeds from a trustee, nominee or straw party to the beneficial owner;
- deeds between a family corporation or entity and its stockholders, partners or members in order to transfer real property in the dissolution or liquidation of the corporation or entity, provided there is no consideration other than shares, interests or debt securities of the corporation or entity;
- transfers pursuant to transfer on death deed;
- deeds to charitable conservation organizations;
- gifts to certain nonprofit institutions, organizations or charitable trusts;
- certain deeds to a limited liability company;
- a change in identity or form of ownership of an entity, provided the beneficial ownership does not change; or
- certain transfers of controlling interests in an entity with real property.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2019.

[Me. Rev. Stat. tit. 36, § 4641-C \(2019\)](#)

## Maine, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located, although Maine statutes provide for a standard recording fee based on the document's length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2013.

See [Me. Rev. Stat. tit. 33, § 751 \(2019\)](#)

## Maine, Other Relevant Provisions

### **TRANSFER OF CONTROLLING INTEREST IN ENTITY WITH REAL PROPERTY INTEREST**

Maine imposes a tax on the transfer or acquisition within any 12-month period of a controlling interest in an entity with real property in Maine. The tax rate is \$2.20 for each \$500 (or part thereof). If a controlling interest is acquired by a series of transfers, each transferor is liable for its proportional share of the tax. All acquisitions within a 12-month period by "persons acting in concert" are aggregated in determining whether a transfer or acquisition of a controlling interest has occurred.

The tax is imposed

- 50 percent on the transferor, and
- 50 percent on the transferee,

but the transferor and the transferee are jointly and severally liable for the full amount.

The State Treasurer credits to the general fund all revenues derived from the tax imposed by § 4641-A(2).

See 18-125-207 Me. Code R. §§ .03, .04 and .05 for additional provisions relating to the application of the tax on the transfer of a controlling interest imposed by § 4641-A(2).

Statutory section 4641-A amended 2001; § 4641-B amended 2020; regulations amended 2008.

[Me. Rev. Stat. tit. 36, § 4641-A\(2\) \(2019\)](#), [§ 4641-B](#) (as amended by [2020 Me. Pub. Law ch. 607](#)); [18-125-207 Me. Code R. §§ .03, .04, .05 \(2020\)](#)

## Maine, Party Required to Pay Tax

### **TRANSFER TAX**

The deed tax is imposed

- 50 percent on the grantor, and
- 50 percent on the grantee.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2001.

[Me. Rev. Stat. tit. 36, § 4641-A\(1\)\(B\) \(2019\)](#)

## Maine, Transfer Tax Amount

### **STATE TAX**

Maine imposes a tax on each deed that transfers Maine real property. The tax rate is \$2.20 for each \$500 (or part thereof) of the consideration for or value of the property, including liens.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section 4641 amended 2019; § 4641-A amended 2001.

[Me. Rev. Stat. tit. 36, §§ 4641, 4641-A\(1\)\(A\) \(2019\)](#)

## Maryland

### Maryland, Earmarked Use for Tax

### **TRANSFER TAX**

Before any distribution in a fiscal year that bonds secured by a pledge of the State transfer tax are outstanding, the transfer tax revenue must be used to pay the bonds' principal and interest, as due. Then, the Department of Assessments and Taxation must deduct the cost of administering the transfer tax and credit those revenues to the fund established under Md. Code Ann., Corps. and Ass'ns § 1-203.3. (In any fiscal year in which transfer tax revenue is used to pay debt service on outstanding bonds, certain distributions of the special fund for State land acquisition or to the

Agricultural Land Preservation Fund will be reduced.) The remaining funds are deposited in a special fund, which is allocated as follows:

- pursuant to § 13-209(b), up to 3 percent of the revenues may be appropriated in the state budget for salaries and related expenses in the Departments of General Services and Natural Resources and in the Department of Planning to administer the Program Open Space;
- the balance of the revenue in the special fund that is not required under § 13-209(b), is allocated (a) for the fiscal year July 1, 2004, \$147,374,444 to the state's general fund and the remainder as provided in the state budget; and (b) for the fiscal year beginning July 1, 2005, \$68,223,132 to the state's general fund, with the remainder as provided by 13-209(d); and
- the balance of the special fund, not required under subsection § 13-209(b) and not allocated to the state's general fund (as described above), the balance of the revenue in the special fund must be distributed as follows: (a) 75.15 percent for the purposes specified in Title 5, Subtitle 9 of the Natural Resources Article, regarding Program Open Space; (b) one percent for land acquisition pursuant to Program Open Space; (c) 17.05 percent for the Agricultural Land Preservation Fund; (d) 5 percent for the Rural Legacy Program; and (e) 1.8% for the Heritage Conservation Fund.

For any fiscal year beginning on or after July 1, 2010, but before July 1, 2013, for which funding is provided through a bond enabling act:

- from the balance of the special fund and before the allocations provided by § 13-209(d) are made, an amount equal to the total amount of funding provided for eligible purposes through the bond enabling act must be allocated to the General Fund; and
- except as otherwise expressly provided, the allocations provided § 13-209(d) are adjusted to reduce the amount that would otherwise be allocated by the amount of funding provided for that purpose under the bond enabling act.

Except as otherwise provided by § 13-209(f), in any fiscal year in which the actual transfer tax revenue collections are greater than the revenue estimates used as the basis for appropriation, the excess amount must be allocated to the special fund for the second fiscal year following the year in



which there is an excess. For any fiscal year in which the actual transfer tax revenue collections are less than the revenue estimates used as the basis for appropriation, the deficiency must be reconciled as provided by § 13-209(f)(2). See § 13-209(g) for provisions that apply as of June 1, 2013 "for fiscal year 2019 and for each subsequent fiscal year, if the unappropriated General Fund surplus as of June 30 of the second preceding year exceeds \$10,000,000."

Neither transfer of funds may "be taken into account for purposes of determining any allocation or appropriation required under § 13–209(f) or (g) of the Tax – Property Article."

Also, the Governor may transfer funds from the special fund established under § 13–209 to the General Fund as follows:

- on or before June 30, 2014, \$89,198,555;
- for the fiscal year beginning July 1, 2014, \$144,188,544;
- for the fiscal year beginning July 1, 2015, \$115,366,700;
- for the fiscal year beginning July 1, 2016, \$82,771,000; and
- for the fiscal year beginning July 1, 2017, \$86,028,000.

### **COUNTY TRANSFER TAX**

The proceeds from the Washington County agricultural land transfer tax are deposited in a special fund that may be used only to purchase development rights on agricultural land under the agricultural preservation program. Dorchester County may use certain revenues generated from the county's transfer tax to pay costs associated with school buildings.

## **MORTGAGE RECORDATION TAX**

Generally, the recordation tax collected under § 12-103(c) is deposited in the state's general fund of the state. However, the recordation tax collected under § 12-103(d) is distributed by the Comptroller, after deducting the cost of administering the recordation tax, to the county in which the property is located.

In Harford County, the proceeds from recordation tax are allocated as follows:

- at the "rate of \$2.20" in a special capital improvement fund used to pay school bonds issued after January 1, 1959;
- at the "rate of \$2.20," after the current fiscal year's debt service has been met, in a fund to be used to finance new school construction, major or capital improvements to school facilities, portable classrooms, or any combination of these purposes; and
- at the "rate of \$0.55" in a fund for open-spaces land and recreation to be used to purchase park lands or to develop park and recreation facilities, to pay loans made for such purposes, to match funds provided for such purposes by a municipal corporation; or to construct "a new headquarters facility in the immediate vicinity of the alms housekeeper's residence on Tollgate Road, if the architectural integrity of the housekeeper's residence is not affected by the construction."

Section 12-110 amended 2019; § 12-113 amended 1988; § 13-503 amended 2003; local law amended 2006; § 13-209 amended 2015.

[Md. Code, Tax-Property §§ 12-110, -113; 13-209, -503 \(2019\); 2006 Md. Laws 404](#) (amending Md. Public Local Laws, art. 10, § 10-8.2F (Supp. 2005)); [2011 Md. Laws ch. 397](#) (permitting specified transfers from the § 13-209 special fund to the general fund)

## Maryland, Exemptions from Tax

### **TRANSFER TAX**

An instrument is not subject to the transfer tax "to the same extent that it is not subject to recordation tax under" the following:

- § 12-108(a), regarding transfers to government or public agencies;
- § 12-108(c), regarding transfers between specified relatives and domestic partners;
- § 12-108(d), regarding transfers between spouses and domestic partners;
- § 12-108(e), regarding supplemental instruments;
- § 12-108(f), regarding previously recorded instruments;
- § 12-108(l), regarding judgments;
- § 12-108(n), regarding satisfaction orders;
- § 12-108(o), regarding participation agreements;
- § 12-108(p), regarding transfers of property between related business entities;
- § 12-108(q), regarding corporate, limited liability company or partnership conveyances;
- § 12-108(r), regarding land installment contracts;
- § 12-108(s), regarding purchase options;

- § 12-108(t), regarding deeds for prior sale contracts;
- § 12-108(u), regarding leases of 7 years or less;
- § 12-108(v), regarding mergers;
- § 12-108(w), regarding consolidations;
- § 12-108(x), regarding cooperative housing corporations;
- § 12-108(y) or (bb), regarding transfer from predecessor entities or real estate enterprises to a limited liability company;
- § 12-108(z), which applied to certain railroad carriers, but, although still listed in § 13-207, has been abrogated in § 12-108;
- § 12-108(aa), regarding transfers involving certain Maryland Stadium Authority affiliates;
- § 12-108(cc), regarding certain transfers to land trusts;
- § 12-108(dd) and (ee), regarding certain transfers from an estate or to or from specified trusts;
- § 12-108(ff), regarding transfers from a certified community development financial institution to the immediately preceding mortgagor or grantor under specified circumstances;

- § 12-108(ff), regarding purchase money mortgages or purchase money deeds of trust related to a transfer from a certified community development financial institution to the immediately preceding mortgagor or grantor under specified circumstances;
- effective July 1, 2017, § 12-108(gg), regarding transfers of a principal residence surrendered in bankruptcy; and
- certain instruments transferring agricultural land that the transferee is acquiring, intending to maintain the character of the land as agricultural land.

Effective June 1, 2019, the transfer tax does not apply to an instrument of writing transferring property from the United States, the State, a state agency or a political subdivision.

## **COUNTY TAXES**

The following instruments are not subject to the county transfer tax:

- transferring property between spouses, former spouses, domestic partners, or former domestic partners pursuant to a property settlement, divorce decree, or domestic partner dissolution;
- pursuant to which the Maryland Stadium Authority transfers title or leases real property to its affiliate;
- those that are exempt from the recordation tax under § 12-108(cc), regarding certain transfers to land trusts; or

- effective July 1, 2006, Prince George's County's transfer tax may not be charged on the first purchase of residential real property to be used as a principal residence by a Prince George's County police officer or a municipal police officer who operates in Prince George's County.

Also, the transfer tax is lower on a sale of improved residential property to a first-time Maryland home buyer who will occupy the property as a principal residence.

## **MORTGAGE RECORDATION TAX**

### ***State exemptions***

The following instruments are exempt from the recording tax:

- a deed transferring property or granting a security interest to the United States, Maryland, or its agency or political subdivision;
- for property transferred subject to a mortgage or deed of trust, the recordation tax does not apply to the principal amount of debt that the transferee assumes, if the instrument transfers the property from a transferor to certain relatives, a domestic partner, or a former domestic partner;
- a deed transferring property between specified relatives or domestic partners;
- supplemental instruments, except to the extent that consideration is payable on the instrument or increases the debt amount;
- previously recorded instruments;

- an instrument, to the extent that it secures the refinancing of an amount that does not exceed the unpaid principal amount secured by an existing mortgage or deed of trust, provided that certain conditions are met;
- a mechanic's lien or crop lien that relates to farm products or equipment used in farming operations;
- a purchase money mortgage or deed of trust;
- a mortgage or deed of trust assignment;
- a court judgment;
- a release;
- a satisfaction order;
- a participation agreement that shows a person's interest in a note, mortgage, or deed of trust that is based on a previously recorded loan to the mortgagor or grantor under a deed of trust;
- a real property transfer between a parent business entity and its wholly owned subsidiary or between subsidiary business entities that are wholly owned by the same parent, provided the parent is an original owner of the subsidiary or became an owner through gift or bequest from an original owner, for no or nominal consideration or for consideration that comprises only the issuance, cancellation, or surrender of ownership interests in the subsidiary;
- a transfer pursuant to the reorganization of a business entity described in § 368(a) of the Internal Revenue Code;

- a transfer from a subsidiary to its parent corporation for no or nominal consideration or consideration that is only the issuance, cancellation, or surrender of the subsidiary's stock, provided the parent previously owned the real property, owns the stock of the subsidiary and has owned that stock for more than 18 months, or acquires the stock of a subsidiary that has owned the real property for 2 years;
- certain transfers of real property from a corporation or entity upon liquidation, dissolution, or termination;
- a land installment contract;
- an option agreement for the purchase of real property;
- a deed, provided the recordation tax was paid on a prior sale contract between the same parties for the real property;
- a lease of 7 years or less;
- certain articles of merger, evidencing a merger of foreign corporations;
- certain articles of consolidation of foreign corporations;
- certain transfers of real property "from a cooperative housing corporation on its termination to an owner of a cooperative interest in the cooperative housing corporation";
- certain transfers from a predecessor entity to a limited liability company;



- a transfer pursuant to which the Maryland Stadium Authority transfers title to or leases real property to its affiliate;
- certain transfers of real property from the individual conducting a real estate enterprise to a limited liability company;
- a conveyance or assignment of a conservation easement to both a land trust and the United States, Maryland, or its agency or political subdivision;
- a transfer from an estate or to or from certain trusts under specified circumstances;
- certain transfers of a controlling interest in a real property entity:
- a written instrument that transfers residential real property from a certified community development financial institution to the property's immediately preceding mortgagor or grantor under specified circumstances;
- a purchase money mortgage or purchase money deed of trust related to a transfer from a certified community development financial institution to the immediately preceding mortgagor or grantor under specified circumstances; and
- a transfer of a principal residence surrendered in bankruptcy and transferred to the holder of the purchase money mortgage or deed of trust.

### ***Baltimore and Maryland counties***

The city of Baltimore or a county may provide for an exemption from the tax "of a specified amount of the consideration payable on the conveyance of owner-occupied residential property if the buyer intends to use the property as the buyer's principal residence by actually occupying the residence for at least 7 months." Effective July 1, 2007, the Baltimore mayor and city council or a county

governing body may exempt, by law, from the recordation tax an instrument that transfers property or grants a security interest from:

- the United States;
- Maryland;
- a Maryland state agency; or
- a Maryland political subdivision.

Effective July 1, 2008, Baltimore's mayor and city council or a county's governing body may exempt from the recordation tax an instrument that transfers title to improved residential real property to a displaced homeowner if the property qualifies as a replacement dwelling.

### ***Charles County***

Charles County may grant:

- an exemption from the recordation tax imposed on an instrument that transfers a rental dwelling in Charles County to an individual who will occupy the property as a principal residence; and
- a whole or partial credit against the recordation tax on an instrument that transfers Charles County property to targeted businesses relocating, expanding, or undertaking new construction in the county.

Sections 12-118, 13-403, and 13-403.1 amended 2008; §§ 12-114 and 12-115 enacted 1999; § 13-410 amended 2004; local law amended 2006; § 12-116 enacted 2007; § 12-103 amended 2018; § 13-203 amended 2013; § 12-108 amended 2018; § 13-207 amended 2019.

[Md. Code, Tax-Property §§ 12-103](#) (as amended by [2018 Md. Laws ch. 720](#)), [-108](#) (as amended by [2018 Md. Laws ch. 594](#)), [-114](#), [-115](#), [-116](#), [-118](#); [13-203](#), [-207](#) (as amended by [2019 Md. Laws ch. 290](#)), [-403](#), [-403.1](#), [-410](#), [-413 \(2019\)](#); [2006 Md. Laws 373](#) (amending Md. Public Local Laws, art. 17, § 10-187 (2003))

## Maryland, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

The recordation tax rates apply to instruments creating liens or encumbrances on or conveying title to realty. The rates, which are imposed locally by the counties and the city of Baltimore, are applied to each \$500 (or fraction thereof) of consideration payable or of the principal amount of the debt, including the amount of any mortgage or deed of trust that the grantee assumes.

The tax rate is \$0.55 for an instrument for property that:

- is located in two or more counties; and
- is security for a corporate bond of a public service company.

See Md. Code Ann., Tax-Prop. § 12-117 and Md. Code Regs. ch. 18.13.02 for provisions that apply to the recordation tax imposed on the transfer of a controlling interest in a real property entity.

The consideration payable for an instrument to which the recordation tax applies includes only the amount paid or delivered in return for the sale and not the amount of any debt forgiven or no longer secured by a mortgage or deed of trust.

### **REFINANCED MORTGAGE**

An instrument, to the extent that it secures the refinancing of an amount that does not exceed the unpaid principal amount secured by an existing mortgage, indemnity mortgage, or deed of trust, is exempt from the tax, provided the mortgage or deed of trust secures the refinancing of real property that is:

- being refinanced by the original mortgagor or the original mortgagor and his or her spouse; or
- being refinanced by the settlor of an inter vivos trust if the mortgage or deed of trust is by the trustee.

Section 12-103 amended 2013; § 12-117 amended 2014; § 12-108 amended 2015; regulatory chapter adopted 2008.

[Md. Code, Tax-Prop. §§ 12-103](#) (as amended by [2018 Md. Laws ch. 720](#)), [-108](#) (as amended by [2018 Md. Laws ch. 594](#)), [-117 \(2019\)](#); Md. Code Regs. 18.13.02.01–.12 (2019)

## Maryland, Other Relevant Provisions

### **AGRICULTURAL LAND TRANSFER TAX**

Maryland imposes an agricultural land transfer tax on an instrument that transfers title to agricultural land. The tax is payable in addition to any other transfer tax imposed under title 13. The tax rates are as follows:

- for a transfer of 20 acres or more of agricultural land, five percent;
- generally, a transfer of less than 20 acres of agricultural land assessed for agricultural use or as unimproved agricultural land, four percent; and

- for a transfer of less than 20 acres of agricultural land assessed as improved agricultural land, three percent.

A surcharge equal to 25 percent of the above tax is imposed on an instrument that transfers title to agricultural land, except that the surcharge does not apply to an instrument that transfers property that:

- contains two acres or less;
- is to be improved; and
- is being transferred to a child or grandchild.

Generally, effective July 1, 2019, the agricultural land transfer tax determined under subsections 13-303(a) or (b) is reduced by:

- 25 percent if property tax on the agricultural land was paid on the basis of any assessment other than the farm or agricultural use assessment under § 8-209 for one full taxable year before a transfer;
- 50% if property tax on the agricultural land was paid on the basis of any assessment other than the farm or agricultural use assessment under § 8-209 for two full taxable years before a transfer; and
- 65% if property tax on the agricultural land was paid on the basis of any assessment other than the farm or agricultural use assessment under § 8-209 for three full taxable years before a transfer.

Also, when determining the agricultural land transfer tax to be imposed pursuant to subsections 13-303(a) or (b), the amount of transferred agricultural land that is exempt from the tax pursuant to § 13-305 may not be included in the amount of agricultural land that is transferred.

Sections amended 2019.

[Md. Code, Tax-Property §§ 13-302, -303, -305](#) (all as amended by [2019 Md. Laws ch. 566](#))

## Maryland, Party Required to Pay Tax

### **TRANSFER TAX**

By agreement, any person may pay the transfer tax. However, the seller must pay any transfer tax imposed on the sale of improved residential real property to a first-time Maryland home buyer who will occupy the property as his principal residence.

### **MORTGAGE RECORDATION TAX**

Any person, by agreement, may pay the recordation tax.

Sections 12-111 and 13-102 enacted 1985; 13-203 amended 2013.

[Md. Code, Tax-Property §§ 12-111; 13-102, -203 \(2019\)](#)

## Maryland, Transfer Tax Amount

### **STATE TAX**

Maryland imposes a transfer tax on written instruments that convey title to or a leasehold interest in real property. The tax rate is 0.5 percent of the consideration payable for the instrument, including the amount of any mortgage or deed of trust that the grantee assumes. However, in the case of a sale of improved residential real property to a first-time Maryland home buyer who will occupy the property as his principal residence, the transfer tax rate is 0.25 percent of the consideration.

Effective July 1, 2013, a 0.5-percent county transfer tax also applies to the consideration paid for the transfer of a controlling interest in a real property entity that has developed property under the federal Low Income Housing Tax Credit Program.

See Md. Code Regs. ch. 18.13.02 for provisions that apply to transfer taxes in conjunction with transfers of a real property entity.

The consideration payable for an instrument to which the transfer tax applies includes only the amount paid or delivered in return for the sale, and not the amount of any debt forgiven or no longer secured by a mortgage or deed of trust.

### **CITY OR COUNTY TAX**

The governing body of a county that has adopted home rule powers may impose a transfer tax on an instrument that conveys title to or a leasehold interest in real property. The transfer tax may not be greater than 0.5 percent. Also, with the local Agricultural Preservation Advisory Board's consent, Washington County may impose a county agricultural land transfer tax for property located in the county, provided the instrument is subject to the state agricultural land transfer tax under Subtitle 3 of title 13. The tax rate may be no greater than 2 percent, and is payable in addition to any other transfer tax imposed by law.

The consideration payable for an instrument to which the transfer tax applies includes only the amount paid or delivered in return for the sale and not the amount of any debt forgiven or no longer secured by a mortgage or deed of trust.

Statutory section 13-202 amended 2000; § 13-402.1 amended 1989; § 13-502 enacted 1991; § 13-101 amended 2018; §§ 13-203, and 13-412 amended 2010; regulations adopted 2008.

[Md. Code, Tax-Prop. §§ 13-101](#) (amended by [2018 Md. Laws ch. 720](#)), [-202](#), [-203](#), [-402.1](#), [-412](#), [-502 \(2019\)](#); Md. Code Regs. 18.13.02.01–.12 (2019)

## Massachusetts

### Massachusetts, Earmarked Use for Tax

## **TRANSFER TAX**

Except for in Barnstable and Suffolk counties, the funds are generally allocated as follows:

- 10.625 percent to each county's Deeds Excise Fund; and
- the remaining taxes, including those collected in Barnstable and Suffolk counties and all counties with abolished governments, to the General Fund.

In any county in which its minimum obligation is not sufficient to satisfy the unfunded county pension liabilities and other benefit liabilities of retired employees of the sheriff's office and other specified public retirement associations, beginning in fiscal year 2011, the county must retain an additional amount determined necessary:

- to meet its annual retirement assessment, which must include the county's required maintenance of effort for the fiscal year plus an additional 10 per cent of the combined maintenance of effort for fiscal year 2010 to fiscal year 2014, inclusive; and
- to satisfy those unfunded county pension liabilities until the minimum obligation is sufficient or the county has paid the unfunded pension liability in full.

Once those liabilities are satisfied, the county retains 10.625 per cent of those taxes collected. In Nantucket County, an additional 30.552 percent of the collected taxes must be transmitted to the Deeds Excise Fund through June 1, 2029, provided that if in any fiscal year that amount exceeds \$250,000, the excess must be transmitted to the General Fund.

The amount deposited in the Deeds Excise Fund for each county that represents 10.625 percent of the taxes collected from transfer tax revenues are distributed as follows:

- not more than 60 percent for meeting the county's operation and maintenance costs; and



- not less than 40 percent for the automation, modernization, and operation of the registries of deeds.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 1 amended 1992; § 10 enacted 1951; § 12 amended 2010; § 11 amended 2014.

[Mass. Gen. Laws ch. 64D, §§ 1, 10, 11, 12 \(2019\)](#)

[Massachusetts, Exemptions from Tax](#)

### **TRANSFER TAX**

Chapter 64D does not apply to:

- an instrument that secures a debt; or
- a deed or instrument with Massachusetts, a Massachusetts city or town, the United States, or any of their agencies are a party.

### **MORTGAGE RECORDATION TAX**

No relevant provisions were located.

Section amended 1992.

[Mass. Gen. Laws ch. 64D, § 1 \(2019\)](#)

## Massachusetts, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located, but Massachusetts does impose a standard filing fee of \$150 for recording a mortgage and \$100 for recording a deed or conveyance.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2003.

See [Mass. Gen. Laws ch. 262, § 38 \(2019\)](#)

## Massachusetts, Other Relevant Provisions

No other relevant provisions were located.

## Massachusetts, Party Required to Pay Tax

### **TRANSFER TAX**

The "person who makes or signs the deed, instrument or writing, or for whose benefit the same is made or signed" must pay the transfer tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 2 amended 1962; § 3A amended 2000.

[Mass. Gen. Laws ch. 64D, §§ 2, 3A \(2019\)](#)

## Massachusetts, Transfer Tax Amount

### **STATE TAX**

Massachusetts levies an excise tax on deeds and other instruments that convey sold realty. The tax rate, based on the consideration (excluding the value of any liens or encumbrances), is as follows:

- \$2 if the consideration is greater than \$100 and less than or equal to \$500; and
- \$2 for each additional \$500 (or part thereof).

The amounts listed on several of the state's registry websites include a surtax, resulting in a tax rate of \$2.28 per \$500. See, e.g., [Worcester District Registry of Deeds, Deed Excise Tax \(last visited June 26, 2020\)](#).

Massachusetts also charges a standard filing fee for each deed or conveyance.

The registers of deeds also generally assesses a surcharge of \$20 when an instrument is recorded, which goes to the Massachusetts Community Preservation Trust Fund.

### **CITY OR COUNTY TAX**

In Barnstable County, the excise tax is \$1.50 for each \$500 (or part thereof), excluding a consideration of between \$0 and \$100.

Section 1 amended 1992; §§ 38 and 8 amended 2008; § 31 amended 2014.

[Mass. Gen. Laws ch. 64D, § 1](#); [ch. 262, § 38](#); [ch. 44B, § 8](#); [ch. 9, § 31 \(2019\)](#)

## Michigan

### Michigan, Earmarked Use for Tax

#### **TRANSFER TAX**

##### ***Section 207.502 tax***

All revenue is deposited in the treasury of the county where the tax is collected and credited to the general fund.

##### ***Section 207.523 tax***

The county treasurer may retain in the general fund the interest earned on the money collected on the § 207.523 tax as reimbursement for the costs incurred in collecting and transmitting the tax. The tax proceeds are credited to the state school aid fund.

#### **MORTGAGE RECORDATION TAX**

A Michigan county's state survey and remonumentation fund receives the following amounts collected pursuant to § 600.2567a:

- an annual grant to implement a county's monumentation and remonumentation plans in an amount not less than 40 percent of the amount collected in the county during the state fiscal year that began two years before the beginning of the state fiscal year in which the grant is made; and
- an annual grant to implement a county's perpetual monument maintenance plan in an amount not less than 20 percent of the amount collected in the county during the state

fiscal year that began two years before the beginning of the state fiscal year in which the grant is made.

Section 207.509 enacted 1966; §§ 207.530 and 207.531 enacted 1993; § 600.2567a amended 2007; § 54.272 amended 2014.

[Mich. Comp. Laws §§ 54.272; 207.509, .530, .531; 600.2567a \(2020\)](#)

## Michigan, Exemptions from Tax

### **TRANSFER TAX**

#### ***Section 207.502 tax***

The following are exempt from the tax imposed by § 207.502:

- the consideration is less than \$100;
- instruments evidencing contracts or transfers that are not to be performed wholly within Michigan if they include land outside of the state;
- written instruments that the state is prohibited from taxing under federal law;
- instruments given as security;
- an assignment or discharge of an instrument given as security;
- leases, including oil and gas leases;

- transfers of leasehold interests;
- personal property;
- transfer of rights and interests for underground gas storage;
- instruments in which the grantor is the United States, Michigan, or the political subdivisions, municipalities, or officers of either;
- instruments given in foreclosure or in lieu of foreclosure of a loan made, guaranteed or insured by the United States, Michigan, or the political subdivisions, municipalities, or officers of either;
- instruments given to the United States, Michigan, or their officers as grantee, pursuant to a loan guaranteed or insured by the grantee;
- conveyances from a spouse or married couple creating or disjoining a tenancy in the entirety;
- judgments or court orders making or ordering transfers, except where the court orders a specific monetary consideration;
- instruments straightening boundary lines, with no monetary consideration;
- instruments to confirm titles already vested in grantees;
- land contracts whereby title does not pass to the grantee until the total consideration has been paid;

- transfers of mineral rights and interests;
- instruments creating a joint tenancy where at least one person already owned the property;
- transfers of property to a receiver, administrator or trustee in any bankruptcy or insolvency proceedings;
- an instrument that transfers ownership that is given pursuant to a written executory contract upon which the tax has previously been paid;
- instruments that evidence debt, except that they are subject to tax to the extent of any new consideration; or
- instruments that supplement, reform or correct a prior instrument, except that they are subject to tax imposed to the extent of any new consideration.

***Section 207.523 tax***

Effective January 1, 2004, the following written instruments and transfers are exempt from the tax imposed by § 207.523:

- the consideration for the property is less than \$100;
- a contract or transfer not to be performed wholly within Michigan only to the extent the instrument includes land lying outside the state;
- an instrument that the state is prohibited from taxing under federal law;

- an instrument given as security;
- an assignment or discharge of a security interest;
- a lease, including an oil and gas lease;
- a transfer of a leasehold interest;
- a personal property interest;
- a transfer for underground gas storage;
- an instrument in which the grantor is the United States, Michigan, or its political subdivision, municipality, or officer;
- an instrument given in foreclosure or in lieu of foreclosure of a loan made, guaranteed, or insured by the United States, a political subdivision or municipality of Michigan, or an officer of the United States or Michigan;
- an instrument given to the United States, Michigan, or their officers acting as grantee, pursuant a loan that the grantee guarantees or insures;
- a conveyance from a husband and/or wife creating or disjoining a tenancy by the entirety;
- a conveyance from an individual to his child, stepchild, or adopted child;
- a conveyance from an individual to his grandchild, step-grandchild, or adopted grandchild;



- a judgment or court order, unless the court orders specific monetary consideration for the transfer;
- an instrument, with no monetary consideration, used to straighten boundary lines;
- an instrument to confirm title already vested in a grantee;
- a land contract in which legal title does not pass until the total consideration has been paid;
- the transfer of mineral rights and interests;
- certain transfers between entities and specified parties, such as a transfer between a corporation and its stockholders;
- an instrument creating a joint tenancy if at least one person already owns the property;
- a transfer made pursuant to a bona fide sales agreement made before the date the tax is imposed, provided the sales agreement cannot be withdrawn or altered, or contains a fixed price not subject to change, except that a sales agreement for residential construction may be adjusted up to 15 percent to reflect changes in construction specifications;
- a transfer of property to a person sufficiently related to the transferor to be considered a single employer with the transferor under § 414(b) or (c) of the Internal Revenue Code;
- a conveyance of property for which an exemption is claimed by the seller or transferor, provided "the state equalized valuation" of the property is "equal to or lesser than the state equalized valuation determined as of the first tax day after the issuance of a certificate of occupancy for the residence, or the date of acquisition of the property, whichever comes later, by the seller or transferor for that same interest in property and the transaction was for

a price at which a willing buyer and a willing seller would arrive through an arms-length negotiation;"

- a transfer pursuant to a mortgage foreclosure, including an instrument given in lieu of foreclosure, except the exemption does not apply to a subsequent transfer by the entity that foreclosed the mortgage;
- a conveyance of an interest from an exempt religious society to an exempt religious society, provided the property continues to be exempt from the collection of taxes;
- a conveyance or transfer of property to a receiver, administrator, or trustee, in a bankruptcy or insolvency proceeding;
- an instrument that transfers property if the instrument is given and the transfer was made pursuant to a written executory contract upon which the tax was previously paid;
- an instrument that is evidence of debt or a contract right, except to the extent of the new consideration given for the property; or
- an instrument given to supplement, reform, or correct a prior written instrument, except to the extent of the new consideration given for the property.

The Michigan Attorney General has opined that a party may claim an exemption from the tax imposed by the State Real Estate Transfer Tax Act (§ 207.521, *et seq.*) if:

- on the date a principal residence is transferred, its "state equalized" value is less than or equal to its state equalized value on the date the owner purchased or acquired the parcel; and
- the property is sold for no more than its "true cash value" at the time of sale.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section 207.505 amended 1969; § 207.506 enacted 1966; § 207.510 amended 1968; § 207.526 amended 2018; §§ 207.527 and 207.532 enacted 1993; opinion issued 2008.

[Mich. Comp. Laws §§ 207.505, .506, .510, .526, .527, .532 \(2020\)](#); 7 Mich. Reg. 63 (May 1, 2008) (Opinion No. 7214)

## Michigan, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the register of deeds generally:

- may charge a \$30 fee for recording documents, including mortgages; and
- must collect an additional fee in the amount of \$4 for recording any instrument.

### **REFINANCED MORTGAGE**

No applicable provisions were located. However, the register of deeds generally:

- may charge a \$30 fee for recording documents, including mortgages; and
- must collect an additional fee in the amount of \$4 for recording any instrument.

Section 600.2567 amended 2016; § 600.2567a amended 2006.

[Mich. Comp. Laws §§ 600.2567, .2567a \(2020\)](#)

## Michigan, Other Relevant Provisions

No other relevant provisions were located.

## Michigan, Party Required to Pay Tax

### **TRANSFER TAX**

#### ***Section 207.502 tax***

The person who is the seller or grantor must pay the tax imposed by § 207.502.

#### ***Section 207.523 tax***

The person who is the seller or grantor of the property is liable for the tax imposed by § 207.523.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 207.502 amended 1968; § 207.523 enacted 2015.

[Mich. Comp. Laws Ann. §§ 207.502, .523 \(2020\)](#)

## Michigan, Transfer Tax Amount

### **STATE TAX**

### ***Section 207.523 tax***

Section 207.523 imposes a tax on:

- contracts for the sale or exchange of property;
- deeds or instruments conveying property for consideration; or
- contracts for the transfer of a controlling interest in an entity if the entity's real property accounts for 90 percent or more of the fair market value of the entity's assets.

The tax rate generally is levied at the rate of \$3.75 for each \$500.00 (or fraction thereof) of the total value of the real property transferred. This tax is in addition to the recordation tax imposed pursuant to §§ 207.501 to 207.513 of the Michigan Compiled Laws.

### **CITY OR COUNTY TAX**

#### ***Section 207.502 tax***

Section 207.502 imposes a recordation tax on contracts for the sale or exchange of real estate or deeds or instruments conveying real property for consideration. The tax rate on each \$500 (or fraction thereof) of the total value is as follows:

- \$0.55 in a county with a population of less than 2,000,000; and
- no more than \$0.75, as authorized by the county board of commissioners, in a county with a population of 2,000,000 or more.

Section 207.502 amended 1968; § 207.504 amended 1980; § 207.523 enacted 2015; § 207.525 amended 1994; § 207.535 amended 1993.

[Mich. Comp. Laws §§ 207.502, .504, .523, .525, .535 \(2020\)](#)

## Minnesota

### Minnesota, Earmarked Use for Tax

#### **TRANSFER TAX**

The taxes assessed under §§ 287.21 to 287.385 are allocated as follows:

- 97 percent to the state's general fund; and
- 3 percent to the county revenue fund.

#### **MORTGAGE RECORDATION TAX**

The taxes paid to the county treasurer under §§ 287.01 to 287.12 are allocated as follows:

- 97 percent to the state's general fund; and
- 3 percent to the county revenue fund.

Section 287.12 amended 2005; § 287.29 amended 2016.

[Minn. Stat. §§ 287.12, .29 \(2019\)](#)

### Minnesota, Exemptions from Tax

## **TRANSFER TAX**

The tax imposed by § 287.21 does not apply to:

- an “executory contract for the sale of real property under which the purchaser is entitled to or does take possession of the real property, or any assignment or cancellation of the contract”;
- a mortgage;
- a mortgage amendment, assignment, extension, release, or satisfaction;
- a will;
- a plat;
- a lease;
- a lease amendment, assignment, or memorandum;
- a deed or instrument in which the United States, a federal agency, or instrumentality is the grantor, assignor, transferor, conveyor, grantee, or assignee;
- a cemetery lot deed;
- a distribution deed by a personal representative;

- a deed partitioning an undivided interest in the same piece of real property;
- a deed or other conveyance instrument issued pursuant to a permanent school fund land exchange;
- a referee's or sheriff's certificate in a foreclosure sale;
- a referee's, sheriff's, or certificate holder's certificate of redemption from a foreclosure sale issued pursuant to § 580.23 or another statute applicable to redemption by a real property owner;
- a deed or instrument that grants, creates, modifies, or terminates an easement;
- a marriage dissolution decree or a deed between the parties to the dissolution made pursuant to the decree's terms;
- a transfer on death deed issued pursuant to § 507.071 and any document referencing a transfer on death deed; or
- consideration paid for a new residential construction improvement if, at or before the time the first residential owners take possession, the deed tax has been paid on the consideration paid for the improvement.

### **MORTGAGE RECORDATION TAX**

The tax imposed by § 287.035 does not apply to:

- a marriage dissolution decree or an instrument made pursuant to the decree;



- a mortgage correcting an incorrect description of the mortgaged property;
- a mortgage or instrument that adds security for the same debt for which the mortgage registry tax has been paid;
- a contract conveying a real property interest, including a contract for deed;
- a mortgage secured by real property subject to the minerals production tax imposed by §§ 298.24 to 298.28;
- the principal amount of a mortgage loan made under a low and moderate income or other affordable housing program, provided the mortgagee is a federal, state, or local government agency;
- mortgages granted by fraternal benefit societies;
- a mortgage amendment or extension;
- an agricultural mortgage, provided the loan proceeds are "used to acquire or improve real property classified under § 273.13, subdivision 23, paragraph (a) or (b)"; or
- a mortgage on an armory building or as set forth in § 193.147.

Section 287.04 amended 2009; § 287.22 amended 2019; § 287.221 enacted 1997.

[Minn. Stat. §§ 287.04, .22, .221 \(2018\)](#)

## Minnesota, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

Minnesota imposes a tax on the privilege of recording a mortgage. The tax rate is .0023 of the debt or portion of the debt that is secured by a recorded mortgage on Minnesota real property. The tax is not imposed on interest that may accrue.

Hennepin and Ramsey Counties may impose an additional mortgage registry tax.

### **REFINANCED MORTGAGE**

Although research located no provisions that explicitly addresses refinanced mortgages, "amendments" are exempt from the tax. An amendment is defined generally as "a document that alters an existing mortgage without securing a new debt, or increasing the amount of an existing debt." An amendment includes a document that does one or more of the following:

- extends the time to pay the original debt;
- changes the interest rate applicable to the unpaid portion of the original debt;
- adds additional real property as security;
- releases some but not all of the real property serving as security;
- replaces all the real property serving as security for the unpaid portion of the debt with other real property regardless of value;
- replaces a party previously bound by the mortgage with a new party; or
- reduces the amount of the debt secured by real property located in Minnesota.

Generally, a document that alters an existing mortgage by providing for an increase in the amount of debt secured by real property is taxed based upon the increase in the debt amount to be secured by Minnesota real property. Effective June 1, 2011, a document that "alters an existing mortgage to secure debt that was (i) advanced, (ii) repaid in whole or in part, and (iii) then readvanced in whole or in part" is generally taxed based upon the new amounts advanced, even if the maximum debt previously secured by the mortgage is not exceeded.

Section 287.01 amended 2000; § 287.035 amended 2001; § 287.04 amended 2009; § 287.05 amended 2013.

[Minn. Stat. §§ 287.01, .035, .04, .05 \(2019\)](#)

## Minnesota, Other Relevant Provisions

### **TAX ON TRANSFER OF CONTROLLING INTEREST IN AN ENTITY THAT OWNS REAL PROPERTY**

A "designated transfer" means a transfer:

- between an entity owned by a sole owner, and that owner;
- between (a) an entity in which one or both spouses who are married to each other are the sole owners, and (b) one or both of the spouses;
- between an entity with multiple co-owners, and all of the co-owners, provided each of the co-owners maintains the same percentage ownership interest in the transferred real property, whether directly or through percentage ownership of the entity;
- between a revocable trust, and the trust's grantor or grantors; or
- of substantially all of the assets of one or more entities pursuant to a reorganization.

Effective for deeds that are both executed and recorded after July 31, 2005:

- for purposes of determining the tax pursuant to 287.21, "the conversion of a corporation to a limited liability company, a limited liability company to a corporation, a partnership to a limited partnership, a limited partnership to another limited partnership or other entity, or a similar conversion of one entity to another does not grant, assign, transfer, or convey real property";
- when transfers are made by instruments pursuant to consolidations, mergers, or designated transfers, the tax is \$1.65;
- if, within six months from the date of a designated transfer, an ownership interest in the grantee is transferred by an initial owner to any person or entity, and the designated transfer would not have been a designated transfer if made to the grantee entity with its subsequent ownership, then a tax is imposed at .0033 of the net consideration; and
- if a subsequent transfer of ownership interests was reasonably expected at the time of the designated transfer, the penalty provided by § 287.31, subdivision 1, is assessed.

Section 287.21 amended 2019; § 287.20 amended 2014.

[Minn. Stat. §§ 287.20, .21 \(2019\)](#)

## Minnesota, Party Required to Pay Tax

### **TRANSFER TAX**

The grantor is liable for the tax imposed by § 287.21, except that a public official is not liable for a tax on an instrument executed in connection with his official duties. If an underpayment is assessable against a grantor pursuant to § 287.37 and the grantor is a business entity that no longer exists, the person who supervised or was responsible for making the tax statement that was submitted to the county treasurer may be liable for the underpayment.

## **MORTGAGE RECORDATION TAX**

The mortgagor is liable for the mortgage recording tax.

Section 287.035 amended 2001; § 287.24 amended 1999.

[Minn. Stat. §§ 287.035, .24 \(2019\)](#)

## Minnesota, Transfer Tax Amount

### **STATE TAX**

Minnesota imposes on each deed or instrument by which any Minnesota real property is transferred or conveyed a tax on the net consideration (excluding liens). Effective for deeds that are both executed and recorded after July 31, 2005, the tax is determined as follows:

- if the transfer is pursuant to a merger, consolidation, or designation transfer, the tax is \$1.65;
- if there is no consideration or if the consideration, excluding any liens or encumbrances, is \$500 or less (\$3,000 or less for deeds recorded after December 31, 2019), the tax is \$1.65; or
- if the consideration, excluding any lien or encumbrance, exceeds \$500 (\$3,000 for deeds recorded after December 31, 2019), the tax is ".0033 of the net consideration."

Effective for deeds both executed and recorded on or after July 1, 2006, the deed tax is \$1.65 on a deed that transfers real property if the transfer is:

- to a builder or contractor;
- intended to be temporary; and

- done solely to enable the builder or contractor to obtain financing to build an improvement on the property under a contract with the grantor that calls for the conveyed property to be reconveyed to the grantor upon completion of and payment for the improvement.

The deed tax is also \$1.65 on the deed that transfers the real property back from the builder or contractor to the grantor.

### **CITY OR COUNTY TAX**

Several counties assess a local deed and mortgage tax. For example, Ramsey County and Hennepin County may impose a mortgage registry and deed tax at the rate of:

- .0001 of the principal for the mortgage registry tax; and
- .0001 of "the amount" for the deed tax.

Section 287.21 amended 2019; § 287.222 enacted 2006; §§ 383A.80 and 383B.80 amended 2013.

[Minn. Stat. §§ 287.21, .222; 383A.80; 383B.80 \(2019\)](#)

## Mississippi

### Mississippi, Earmarked Use for Tax

No applicable provisions were located.

### Mississippi, Exemptions from Tax

No applicable provisions were located.

### Mississippi, Mortgage Recordation Tax Amount

No applicable provisions were located, but see § 25-7-9 for a list of standard per document/page recording fees.

Section amended 2019.

See Miss. Code § 25-7-9 (LexisNexis 2019)

## Mississippi, Other Relevant Provisions

### **MINERAL DOCUMENTARY TAX**

#### ***Tax amount***

Mississippi levies a mineral documentary tax on the filing and recording of:

- a lease or document that creates a leasehold interest in a “nonproducing oil, gas or other minerals in, on or under or that may be produced from any lands” in Mississippi;
- a document pursuant to which such interest is assigned or extended; or
- a deed or other instrument conveying to a grantee or purchaser, or “excepted or reserved to a grantor separately and apart from the surface,” any interest in or right to receive royalty from “nonproducing oil, gas or other minerals in, on or under or that may be produced from any lands” in Mississippi.

The mineral documentary tax rate is as follows:

- the minimum tax is \$1.00;
- \$0.03 per “mineral or royalty acre conveyed, leased, assigned, excepted, reserved or transferred,” if the primary term of the lease expires 10 years or less from the instrument’s execution date;

- \$0.06 per acre, if the primary term expires more than 10 years, but not more than 20 years, from the execution date; and
- \$0.08 per acre, if the primary term is greater than 20 years from the instrument's execution date.

The clerks of the chancery courts also charge a nominal fee for recording oil and gas leases, cancellations, and other similar documents.

### ***Party required to pay***

The grantee and the beneficiary or real party in interest must pay the mineral documentary tax, except that the grantor must pay for any exception or reservation creating an interest in the instrument.

### ***Exemptions***

The mineral documentary tax does not apply to:

- a mortgage or instrument creating a lien on the interest;
- a foreclosure sale; or
- the passing of an interest by descent or will.

### ***Earmarked use for tax***



The mineral documentary tax is allocated as follows:

- 5 percent is retained by the chancery clerk as a collection fee; and
- the remainder is credited to the county, 50 percent to the common county fund and 50 percent to the county school fund.

Section 27-31-77 amended 1964; §§ 27-31-79, and 27-31-85 amended 1946; § 25-7-9 amended 2019; § 27-31-81 amended 2008.

Miss. Code §§ 27-31-77, -79, -81, -85 (LexisNexis 2019); *see also* Miss. Code § 25-7-9 (LexisNexis 2019)

### Mississippi, Party Required to Pay Tax

No applicable provisions were located.

### Mississippi, Transfer Tax Amount

No applicable provisions were located. But see "Other Relevant Provisions" for a mineral documentary tax that applies to certain transactions.

## Missouri

### Missouri, Earmarked Use for Tax

No applicable provisions were located.

The state's nominal recording fee is allocated as follows:

- of each fee collected under § 59.319(1), \$2 is deposited in a recorder's fund, \$1.00 is to be credited to the "Missouri Land Survey Fund," and \$1.00 is to be used by the secretary of state for additional preservation of local records; and

- the \$3 additional fee for recording any instrument collected under § 59.319(2) is earmarked for the Missouri housing trust fund.

Section amended 2012.

[Mo. Rev. Stat. § 59.319 \(2020\)](#)

### Missouri, Exemptions from Tax

No applicable provisions were located.

### Missouri, Mortgage Recordation Tax Amount

No applicable provisions were located. But see § 59.319 for standard, nominal user fees and a \$3 per document additional fee required to record certain instruments related to real property.

Section amended 2012.

[Mo. Rev. Stat. § 59.319 \(2020\)](#)

### Missouri, Other Relevant Provisions

No other relevant provisions were located.

### Missouri, Party Required to Pay Tax

No applicable provisions were located.

### Missouri, Transfer Tax Amount

No applicable provisions were located. As of November 2, 2010, Missouri's constitution prohibits the state, its counties, or any political subdivision from imposing a new tax on the sale or transfer of real estate.

Constitutional section amended 2010.

[Mo. Const. art. X, § 25](#)

## Montana

### Montana, Earmarked Use for Tax

No applicable provisions were located.

### Montana, Exemptions from Tax

No applicable provisions were located.

### Montana, Mortgage Recordation Tax Amount

#### **INITIAL MORTGAGE**

No applicable provisions were located. However, Montana law imposes a filing fee based on the document's length.

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2011.

[Mont. Code Ann. 7-4-2637 \(2019\)](#)

### Montana, Other Relevant Provisions

No other relevant provisions were located.

### Montana, Party Required to Pay Tax

No applicable provisions were located.

### Montana, Transfer Tax Amount

No applicable provisions were located. As of November 2, 2010, the Montana constitution prohibits the state or any local government from imposing a tax on a real property sale or transfer.

Constitutional section approved 2010.

[Mont. Const. art VIII, § 17](#)

## Nebraska

### Nebraska, Earmarked Use for Tax

#### **TRANSFER TAX**

From each \$2.25 of tax collected:

- \$0.50 is retained by the register of deeds and placed in the county general fund; and
- the balance is transferred to the State Treasurer, credited as follows: \$.95 to the Affordable Housing Trust Fund; \$.25 to the Site and Building Development Fund; \$.25 to the Homeless Shelter Assistance Trust Fund; and \$.30 to the Behavioral Health Services Fund.

#### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2011.

[Neb. Rev. Stat. § 76-903 \(2019\)](#)

### Nebraska, Exemptions from Tax

#### **TRANSFER TAX**

The transfer tax does not apply to the following:

- deeds recorded before November 18, 1965;
- deeds by or to the United States, Nebraska, or any agencies or subdivisions of either;
- deeds that secure or release a debt or other obligation;
- deeds, without additional consideration, that confirm, correct, modify, or supplement a previously recorded deed, but that do not extend or limit the existing title or interest;
- deeds without consideration between spouses or between ex-spouses "for the purpose of conveying any rights to property acquired or held during the marriage";
- deeds without consideration between parent and child;
- certain deeds to or from a family corporation or entity, for no consideration other than stock or interest in the entity or the return of stock to liquidate the corporation or dissolve an entity;
- tax deeds;
- partition deeds;
- deeds made pursuant to mergers, consolidations, sales, or transfers of the corporate assets pursuant to merger or consolidation plans;

- deeds by a subsidiary to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
- cemetery deeds;
- mineral deeds;
- deeds executed pursuant to a court decree;
- land contracts;
- deeds that release a reversionary interest, condition, restriction, or other contingent interest;
- deeds conveying to devisees or heirs property passing by testate or intestate succession;
- transfer on death deeds or their revocations;
- death certificates;
- certain deeds transferring property located within a reservation;
- deeds transferring property into a trust, provided the transfer would be exempt if made directly from the grantor to the beneficiary under the trust;
- deeds transferring property from a trustee to a beneficiary;

- certain deeds conveying property held by a partnership or limited liability company to a partner or member or his spouse;
- leases;
- easements;
- deeds transferring title from a trustee to a beneficiary pursuant to a power of sale under a trust deed; or
- effective April 2, 2014, deeds transferring property, without consideration, to a nonprofit organization that is exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code and is not a private foundation.

### **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Statutory section amended 2014; regulation amended 2005.

[Neb. Rev. Stat. § 76-902 \(2019\)](#); [316 Neb. Admin. Code § 52-003 \(2020\)](#)

### **Nebraska, Mortgage Recordation Tax Amount**

#### **INITIAL MORTGAGE**

No applicable provisions were located. However, the register of deeds and the county clerk receive a recording fee based on the document's length.

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019.

[Neb. Rev. Stat. § 33-109 \(2019\)](#)

## Nebraska, Other Relevant Provisions

No other relevant provisions were located.

## Nebraska, Party Required to Pay Tax

### **TRANSFER TAX**

The grantor is liable for the transfer tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2005.

[Neb. Rev. Stat. § 76-901 \(20198\)](#)

## Nebraska, Transfer Tax Amount

### **STATE TAX**

Nebraska imposes a tax on the grantor executing a deed for the "transfer of a beneficial interest in or legal title to real estate." The tax rate is \$2.25 for each \$1000 (or fraction thereof) of the value.



## **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2005.

[Neb. Rev. Stat. § 76-901 \(2019\)](#)

## **Nevada**

### **Nevada, Earmarked Use for Tax**

## **TRANSFER TAX**

### ***State transfer tax***

The tax imposed by § 375.020 is allocated as follows:

- \$0.10 for each \$500 (or fraction thereof), to an account for affordable housing;
- in a county with a population of more than 700,000, \$0.60 for each \$500 (or fraction thereof), to the county school district's fund for capital projects; and
- the remaining proceeds, to the local government tax distribution account, for credit to the accounts of Carson City and each county.

In addition to the authorized uses set forth above, a county or city may use the proceeds to develop tier one or tier two affordable housing for families, provided that the county or city must give priority to affordable housing for disabled or elderly persons.

The tax imposed by § 375.026 must be used in the Plant Industry Program.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 375.070 amended 2019; § 561.355 amended 2015.

[Nev. Rev. Stat. §§ 375.070; 561.355 \(2019\)](#)

### **Nevada, Exemptions from Tax**

#### **TRANSFER TAX**

The taxes imposed by § 375.020 does not apply to:

- a change in identity, form or place of organization;
- a transfer to the United States, a state, or an agency, department, instrumentality or political subdivision of either;
- a transfer "recognizing the true status of ownership of the real property," including a transfer pursuant to a previously recorded land sale installment contract for which the transfer taxes have been paid;
- a transfer without consideration from one joint tenant or tenant in common to the remaining joint tenants or tenants in common;

- a transfer, assignment or other conveyance of real property if the property owner is related to the person to whom it is conveyed "within the first degree of lineal consanguinity or affinity";
- a transfer between former spouses pursuant to a divorce decree;
- a transfer to effectuate a property settlement agreement or to comply with a divorce decree;
- certain transfers without consideration to or from a trust;
- a transfer, assignment or conveyance of unpatented mines or mining claims;
- a transfer, assignment or conveyance to a corporation or other business organization, provided the person conveying the property owns 100 percent of the corporation or organization;
- a conveyance of real property pursuant to certain reorganization plans;
- a transfer to an educational, library or a university foundation; or
- certain conveyances by deed that become effective upon the grantor's death.

Nebraska regulations also include the following examples of transfers that are not subject to the real property transfer tax:

- reconveying realty, conveyed to secure a debt, upon the debt's payment;
- a deed to or by a trustee not pursuant to a sale;

- a deed to confirm title already vested in the grantee;
- certain executor's deeds given according to the terms of a will;
- a deed from an agent to his principal conveying real estate purchased with the principal's money;
- a purchase option or sale contract for real property, provided the contract does not vest legal title until a future event occurs;
- certain partition deeds;
- ordinary leases;
- a debtor's deed conveying property to a trustee for the benefit of his creditors;
- conveying to a receiver realty included in the receivership assets;
- reconveying realty upon terminating a receivership;
- a deed conveying real estate in a foreign country;
- transferring real estate in a "statutory merger consolidation";
- distributing real property owned by a liquidating corporation to its shareholders, in percentages equal to their ownership in the corporation;

- transfers to a trustee in a bankruptcy proceeding pursuant to an approved reorganization plan;
- specified transfers of real property involving trusts; and
- certain purchase agreements, providing that the transaction is not complete until the seller obtains a zoning change and the buyer has not yet received a present interest in the property.

Also, a university foundation is exempt from transfer taxes.

### **MORTGAGE RECORDATION TAX**

No applicable provisions located.

Section 396.405 amended 2011; § 375.090 amended 2017; regulation amended 2004.

[Nev. Rev. Stat. §§ 375.090; 396.405 \(2019\); Nev. Admin. Code ch. 375, § 170 \(2020\)](#)

### **Nevada, Mortgage Recordation Tax Amount**

#### **INITIAL MORTGAGE**

No applicable provisions were located. However, the county recorder charges a recording fee of \$25 per document, unless otherwise specified, plus an additional \$7.00 fee to be distributed as provided by statute..

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019.

[Nev. Rev. Stat. § 247.305 \(2019\)](#)

## Nevada, Other Relevant Provisions

No other relevant provisions were located.

## Nevada, Party Required to Pay Tax

### **TRANSFER TAX**

The buyer and seller are jointly and severally liable for the taxes imposed by § 375.020.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section amended 2009; regulation amended 2004.

[Nev. Rev. Stat. § 375.030 \(2019\)](#); *see also* [Nev. Admin. Code ch. 375, § 190 \(2020\)](#)

## Nevada, Transfer Tax Amount

### **STATE TAX**

Nevada imposes a transfer tax for each \$500 of value (or fraction thereof) for each deed by which any realty is transferred or conveyed to another person and to certain land installment contracts, provided in either case that the consideration or value of the property conveyed exceeds \$100. The tax rates are as follows:

- \$1.25, in a county with a population of 700,000 or more; and
- \$0.65, in a county with a population of less than 700,000.

In addition to all other taxes imposed on real property transfers, a tax, at the rate of \$1.30 on each \$500 of value (or fraction thereof), is assessed on each deed by which any "lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to" another person and certain land installment contracts, if the consideration or value of the property interest exceeds \$100.

### **CITY OR COUNTY TAX**

Section 375.025, which authorized certain county transfer taxes, has been repealed.

In addition to all other taxes imposed on real property transfers, the board of county commissioners of a county with a population of less than 700,000 may impose a tax of up to 5 cents for each \$500 of value (or fraction thereof) on each deed by which any real property is transferred or conveyed to another person, or on each land sale installment contract, if the consideration or value of the conveyed interest or property exceeds \$100.

The county recorder must transmit the proceeds from this tax to the State Treasurer for use in the Plant Industry Program.

Effective June 8, 2015, upon voter approval, the board of county commissioners must impose a tax (at the rate specified in the question presented to the voters) on each deed by which any realty is granted, assigned, or otherwise conveyed to, or vested in, another person, or land sale installment contract, if the consideration or value of the interest or property exceeds \$100.

Section 375.023 amended 2009; § 375.025 repealed 2003; §§ 375.020 and 375.026 amended 2011; county tax section enacted 2015.

## New Hampshire

### New Hampshire, Earmarked Use for Tax

#### **TRANSFER TAX**

The register of deeds (or the county if the register of deeds is paid a salary) is paid four percent of the proceeds for his services, which amount is allocated before the taxes are remitted. However, if that amount exceeds \$12,000, the excess is paid to the state treasurer.

Section 78-B:13 addresses the allocation of the funds as follows:

- I. The commissioner shall determine the additional amounts of revenue produced by an increase of \$.25 per \$100 in the rate of tax imposed by RSA 78-B:1 for each fiscal year and shall certify such amounts to the state treasurer by October 1 of that year for deposit in the education trust fund established by RSA 198:39.
  
- II. The commissioner shall make quarterly estimates of the amount of additional revenues that will be produced by the increase in tax rate for the next fiscal year and shall certify such amounts to the state treasurer for deposit in the education trust fund established by RSA 198:39.

Effective July 1, 2020, annually, the commissioner must direct the state treasurer to transfer \$5,000,000 from revenue collected pursuant to the transfer tax imposed by § 78-B:1 to the affordable housing fund.

#### **MORTGAGE RECORDATION TAX**

No provisions specifically applicable to a mortgage recordation tax were located. However, effective July 1, 2008, the county recorder must forward the additional surcharge it collects for recording specified documents, including mortgages and deeds, to the state treasurer for deposit in the trust fund for the "land and community heritage investment program."

Section 78-B:13 enacted 2019; § 478:17-g amended 2019; § 78-B:8 amended 2018.



[N.H. Rev. Stat. §§ 78-B:8, :13; § 478:17-g \(2019\)](#)

## New Hampshire, Exemptions from Tax

### **TRANSFER TAX**

The transfer tax does not apply to the following:

- a transfer to New Hampshire, its political subdivisions, the United States, or its agencies or instrumentalities;
- a mortgage or other instrument given to secure a debt or obligation;
- a discharge of mortgage or other release of security for a debt or obligation;
- a deed or instrument that corrects a previous document;
- a deed by a tax collector for property purchased at a tax sale;
- a transfer of title from an organization exempt from federal tax under § 501 of the Internal Revenue Code to another exempt organization, provided both organizations result from the corporate reorganization of a hospital;
- a transfer to the Trust for New Hampshire Lands, if the Trust acquires the real estate to transfer it to the program before June 30, 1993;
- noncontractual transfers;

- a transfer of cemetery plots;
- a transfer by devise or other testamentary disposition, by intestate succession, or by the death of any cotenant of property held in joint tenancy, regardless of any consideration paid or obligation assumed by the transferee;
- a transfer to the beneficiary of a partnership interest, if the partnership dissolves by operation of law due to a partner's death;
- a transfer between spouses pursuant to a divorce decree;
- an otherwise taxable transfer between a land trust, established to provide affordable housing to low-income people, and a housing cooperative, provided the transfer tax is paid by the trust on the initial purchase of the property;
- a deed transferred in accordance with § 80:89 (VI);
- a lease, including a sale, transfer, or assignment of an interest in leased property, if the lease term, including renewals, is less than 99 years;
- a transfer of title provided (a) the transfer of title, where no consideration is exchanged, is coincidental to a change in the transferor's form of organization to that of the transferee; (b) as a result of the change in the transferor's form of organization, the assets and liabilities of the transferor immediately preceding the change in form of organization and the assets and liabilities of the transferee immediately following the change in form of organization are the same; and (c) at the time of the transfer of title, the owner(s) of the transferor and the owner(s) of the transferee, and the respective ownership percentages of each, are identical;
- a transfer of title from the owners of an entity to the entity, or from the entity to the owners of the entity; provided that: (a) no consideration is exchanged for the transfer of the real estate; and (c) the direct or indirect owners of the parties to the transfer remain the same before and after the transfer of the real estate, the respective ownership percentages of

each are identical, and the combined assets and liabilities of the transferor and transferee remain the same except with respect to the real estate;

- a direct or indirect transfer of an interest in real property, if the real estate transfer tax was paid by the buyer or seller, or an affiliate of either, when the property title was acquired, unless otherwise exempt, and the "transfer is made in connection with the commencement, syndication, development, re-syndication, or conclusion of investment financing" related to specific low-income housing.

An exemption related to a transfer of title pursuant to a merger, consolidation, or reorganization of two or more charitable organizations was repealed effective August 17, 2007.

### **MORTGAGE RECORDATION TAX**

No specifically applicable provisions were located. However, a county may not assess the "land and community heritage investment program surcharge" for recording any documents "in which the United States or any instrumentality thereof, the state, a state agency, a county, a municipality, a village district, or a school district is a party."

Statutory section 478:17-g amended 2018; § 78-B:2 amended 2019; regulation effective 2006 and readopted 2014.

[N.H. Rev. Stat. §§ 78-B:2, 478:17-g \(2019\); N.H. Code Admin. R. Rev. 802.03 \(2020\)](#)

### **New Hampshire, Mortgage Recordation Tax Amount**

#### **INITIAL MORTGAGE**

No specifically applicable provisions were located. However, the register of deeds in each county generally may collect:

- a per page charge for recording each document; and

- an additional "land and community heritage investment program surcharge" for "recording each deed, mortgage, mortgage discharge or plan, but . . . not . . . for the recording of any other document."

### **REFINANCED MORTGAGE**

No specifically applicable provisions were located.

Section amended 2018.

[N.H. Rev. Stat. § 478:17-g \(2019\)](#)

### **New Hampshire, Other Relevant Provisions**

No other relevant provisions were located.

### **New Hampshire, Party Required to Pay Tax**

### **TRANSFER TAX**

The purchaser, grantee, assignee or transferee must attach indicia of transfer tax payment to an instrument selling, granting, assigning, or transferring real estate. The seller, grantor, assignor or transferor must buy and attach indicia of payment to an instrument selling, granting, assigning or transferring real estate. The tax rate set forth in § 78-B:1 applies to both the purchaser, grantee, assignee or transferee and the seller, grantor, assignor or transferor.

See § 78-B:4(IV) for provisions that apply if the real estate consists of manufactured housing.

### **MORTGAGE RECORDATION TAX**

No provisions specifically applicable to a mortgage recordation tax were located. However, the "land and community heritage investment program surcharge" must be paid by the grantee in a deed and the grantor in a mortgage.

Sections amended 2018.

[N.H. Rev. Stat. §§ 78-B:4; 478:17-g \(2019\)](#)

## New Hampshire, Transfer Tax Amount

### **STATE TAX**

New Hampshire imposes a tax on the sale and transfer of real estate. The tax rate is as follows:

- \$.75 per \$100 (or part thereof) of the price or consideration, if the price or consideration is greater than \$4000; and
- a minimum tax of \$20, if the price or consideration is \$4000 or less.

The tax is computed to the nearest whole dollar.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 1999.

[N.H. Rev. Stat. § 78-B:1 \(2019\)](#)

## New Jersey

### New Jersey, Earmarked Use for Tax

#### **TRANSFER TAX**

##### ***Basic Transfer fee***

Generally, the proceeds of the fees collected by the county recording officer are remitted to the county recorder. The county portion of the basic fee is retained by the county treasurer for the county's use.

The state portion of all fees are paid to the state treasurer for the state's use, to be allocated as follows:

- \$25 million paid to the state treasurer from that state portion of the basic fee must be credited to the "Shore Protection Fund"; and
- \$12 in each of the first 10 years after enactment of the "Highlands Water Protection and Planning Act," and \$5 million in each year after, paid during the fiscal year to the State Treasurer from the payment of fees collected by the county recording officer "other than the additional fee of \$0.75 for each \$500.00" in excess of \$150,000 is credited to the "Highlands Protection Fund."

Amounts paid on new construction, which are to a large extent exempt pursuant to § 46:15-10.1, are remitted to the state treasurer and must be credited to the Neighborhood Preservation Nonlapsing Revolving Fund.

##### ***Additional fee***

The fees collected from the additional fee are credited to the Neighborhood Preservation Nonlapsing Revolving Fund.

## ***Supplemental fees***

The supplemental fee proceeds are allocated as follows:

- \$0.25 for each \$500.00 of consideration (or part thereof), retained by the county treasurer; and
- the balance, remitted to the State Treasurer for deposit to the Extraordinary Aid Account, to be used to provide extraordinary special education aid and extraordinary aid pursuant to § 18A:7F-55 and the Municipal Property Tax Relief Act.

From the supplemental fees collected pursuant to § 46-15-7.1(a) and retained by the county treasurer, a county that received funding in fiscal year 2003 to support public health services pursuant to the Public Health Priority Funding Act must, at a minimum, fund its priority health services in subsequent years at the same level as fiscal year 2003. The county must use the supplemental fees retained that exceed the amounts that must be used to fund the county's priority health services for general county purposes.

## ***Additional fee on residential transfers exceeding \$1,000,000***

The additional fee on residential transfers exceeding \$1,000,000 is remitted to the State Treasurer for deposit to the general fund.

## ***Appropriations***

Note that recent appropriations acts have addressed the use of the state's transfer fees. For example, the 2018 appropriations act provides, among other similar provisions, that the amount "appropriated for Local Planning Services and Affordable Housing accounts shall be payable from the receipts of the portion of the realty transfer fee directed to be credited to the "New Jersey Affordable Housing Trust Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer fee directed to be credited to the "New Jersey Affordable Housing Trust Fund" pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1)."

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 46:15-7.1 amended 2007; §§ 46:15-8 and 46:15-10.2 amended 2004; § 46:15-10.1 amended 2008; appropriations bill enacted 2018.

[N.J. Stat. §§ 46:15-7.1\(c\), \(d\), \(e\); -8; -10.1; -10.2 \(2020\); see 2018 N.J. Laws ch. 53](#)

## **New Jersey, Exemptions from Tax**

### **TRANSFER TAX**

The fee imposed by chapter 46:15 does not apply to the following deeds:

- for consideration of less than \$100;
- by or to the United States, New Jersey, or any instrumentality, agency, or subdivision of either;
- to provide or release security for a debt or obligation;
- to confirm or correct a previously recorded deed;
- for a sale for delinquent taxes or assessments;
- on partition;



- by a receiver, bankruptcy or liquidation trustee or assignee for the benefit of creditors;
- recordable as an "ancient deed";
- acknowledged on or before July 3, 1968;
- between husband and wife;
- between parent and child;
- conveying a cemetery lot;
- pursuant to a final judgment;
- releasing a reversion right;
- previously recorded in another county and the full realty transfer fee was paid;
- by a decedent's executor or administrator to a devisee or heir to distribute the decedent's estate pursuant to the decedent's will or New Jersey intestate laws;
- recorded within 90 days following the entry of a divorce decree dissolving the grantor's and grantee's marriage; or

- issued by a cooperative corporation, as part of a conversion of the corporation's assets into a condominium, to a shareholder upon his surrender of all of his stock in the cooperative corporation.

The following transfers are exempt from the state portion of the basic fee:

- certain sales of a one- or two-family residence owned and occupied by a senior citizen, blind person, or disabled person who is the seller; or
- the sale of low and moderate income housing.

Transfers of real property with new construction are exempt from 80 percent of the state portion of the basic fee for all consideration up to \$150,000.

See N.J. Admin. Code §§ 18:16-2.1 *et seq.* and -5.1 *et seq.* for requirements that apply to recording exempt deeds.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 46:15-10 amended 1999; § 46:15-10.1 amended 2008.

[N.J. Stat. §§ 46:15-10, -10.1 \(2020\)](#)

New Jersey, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, § 22A:4-4.1 imposes a standard mortgage recording fee.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2007.

See [N.J. Stat. § 22A:4-4.1 \(2020\)](#)

### **New Jersey, Other Relevant Provisions**

No other relevant provisions were located.

### **New Jersey, Party Required to Pay Tax**

### **TRANSFER TAX**

The grantor must pay the transfer tax, the supplemental fee, and the additional fee. However, the grantee must pay the additional fee on residential transfers greater than \$1,000,000.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 46:15-7 amended 2008; § 46:15-7.2 amended 2006.

[N.J. Stat. §§ 46:15-7, -7.2 \(2020\)](#)

### **New Jersey, Transfer Tax Amount**

## **STATE TAX**

### ***Basic transfer fee***

New Jersey imposes a realty transfer fee computed on the amount bid for the property plus any superior mortgages or liens that constitute consideration. The basic fee consists of a state portion at the rate of \$1.25 for each \$500 of consideration (or part thereof), and a county portion at the rate of \$0.50 for each \$500 of consideration (or part thereof); except that the state portion is not imposed on and after the tenth day following a certification pursuant to § 46:15-10.2(2)(b) or § 13:19-16.1(2)(b)(ii).

### ***Additional fee***

For each conveyance or transfer of property, the grantor must pay an additional fee in the amount of \$0.75 for each \$500 of consideration (or part thereof) in excess of \$150,000; except that the state portion is not imposed on and after the tenth day following a certification pursuant to § 46:15-10.2(2)(b) or § 13:19-16.1(2)(b)(ii).

### ***General purpose fee***

The grantor must also pay a general purpose fee at the rate of:

- \$0.90 for each \$500 of consideration (or part thereof) that is not in excess of \$550,000.00, except that if the total consideration recited in the deed does not exceed \$350,000, no general purpose fee is imposed;
- \$1.40 for each \$500 of consideration (or part thereof) exceeding \$550,000 but not greater than \$850,000;
- \$1.90 for each \$500 of consideration (or part thereof) exceeding \$850,000 but not greater than \$1,000,000; and

- \$2.15 for each \$500 of consideration (or part thereof) exceeding \$1,000,000.

### ***Supplemental fee***

A grantor must pay a supplemental fee of:

- \$0.25 for each \$500 of consideration (or part thereof) no greater than \$150,000;
- \$0.85 for each \$500 of consideration (or part thereof) greater than \$150,000, but no greater than \$200,000; and
- \$1.40 for each \$500 of consideration (or part thereof) greater than \$200,000;

plus, for a transfer described in § 46:15-10.1, an additional \$1.00 for each \$500 of consideration (or part thereof) not exceeding \$150,000, which fee is collected by the county recorder. However, the supplemental fee is not imposed on a transfer that is made by a deed as described in § 46:15-10 or certain transfers listed in § 46:15-10.1.

### ***Additional fee on certain transfers exceeding \$1,000,000***

Effective February 1, 2005, in addition to all fees set forth above, the grantee of a deed to transfer real property for consideration greater than \$1,000,000 must pay a fee equal to one percent of the entire amount of consideration, which fee is collected by the county recorder, provided the property is:

- classified as Class 2 residential;

- includes Class 3A farm property (regular), but only if the property includes a building or structure intended or suited for residential use, and any other property regardless of class, that is effectively transferred to the same grantee in conjunction with that Class 3A farm property;
- a cooperative unit; or
- effective August 1, 2006, classified as Class 4A "commercial properties."

The fee does not apply to a deed if the grantee is an organization determined by the IRS to be exempt from federal income tax pursuant to 26 U.S.C. § 501(3)(c).

### **CITY OR COUNTY TAX**

No applicable provisions were located in New Jersey's state statutes or state regulations.

Section 46:15-7 amended 2008; § 46:15-7.1 amended 2007; § 46:15-7.2 amended 2006; § 46: 15-7.3 enacted 2005.

[N.J. Stat. §§ 46:15-7, -7.1, -7.2, -7.3 \(2020\)](#)

## **New Mexico**

### **New Mexico, Earmarked Use for Tax**

No applicable provisions related to taxes were located. However, a county must deposit its recording fees as follows: for each \$25 fee, \$18 in the county general fund and \$7 in the county clerk recording and filing fund. The county clerk recording and filing fund must be expended as provided by § 14-8-12.2.

Section 14-8-15 amended 2011; § 14-8-12.2 amended 2019.

[N.M. Stat. §§ 14-8-12.2, -15 \(2019\)](#)

## New Mexico, Exemptions from Tax

No applicable provisions were located.

## New Mexico, Mortgage Recordation Tax Amount

No applicable provisions were located. However, a county clerk may not receive a document for filing or recording unless the applicable recording fee has been paid.

Section amended 2011.

See [N.M. Stat. § 14-8-15 \(2019\)](#)

## New Mexico, Other Relevant Provisions

No other relevant provisions were located.

Santa Fe introduced a bill creating an ordinance that, if certified by election, would have imposed a real estate transfer tax on homes that sold for \$750,000 or more. See Santa Fe, N.M., Proposed Art. 18-19, *An Ordinance Creating Article 18-19 of the Santa Fe City Code Imposing a Real Estate Transfer Tax* (2007). A special election was held on March 10, but the proposed ordinance failed. Julie Ann Grimm, *Voters Nix Transfer Tax on Luxury Homes*, *The New Mexican*, March 10, 2009.

Note that S.B. 1056, 48th Leg., Reg. Sess. (N.M. 2007) and S.B. 160, 48th Leg., 2d Reg. Sess. (N.M. 2008), each of which would have prohibited a municipality from imposing a real property transfer tax, did not pass into law.

## New Mexico, Party Required to Pay Tax

No applicable provisions were located.

## New Mexico, Transfer Tax Amount

No applicable provisions were located.

## New York

### New York, Earmarked Use for Tax

#### **TRANSFER TAX**

### ***§ 1402 transfer tax***

The tax imposed by § 1402 is allocated:

- \$119.1 million to the environmental protection fund; and
- all sums remaining moneys to the clean water/clean air fund.

Notwithstanding the above, effective July 1, 2019, the transfer taxes imposed under § 1402(a)(ii) and under § 1402-b must be deposited to the credit of the Comptroller in trust for the Metropolitan Transportation Authority.

### ***Peconic Bay transfer tax***

Revenues from the Peconic Bay transfer tax are deposited in the town's community preservation fund.

### ***Broome County transfer tax***

The Broome County transfer taxes are deposited into the Broome County general fund and must be used only to fund veterans' services programs in the county.

### ***Town of Warwick***

The town of Warwick's transfer taxes must be deposited into a community preservation fund.



## **MORTGAGE RECORDATION TAX**

### ***§ 253(1-a) special additional recording tax***

Generally, the balance of the funds paid on the special additional taxes imposed pursuant to § 253(1-a), after deducting the necessary office expenses, are paid to the New York state mortgage agency for deposit to the mortgage insurance fund. See § 261(2) for details related to the specific allocations of the taxes imposed pursuant to § 253(1-a), involving special allocations to the corporate transportation account of the metropolitan transportation special assistance fund or the Niagara Frontier transportation authority.

### ***§ 253(2) additional recording taxes***

The balance of funds from the additional taxes imposed pursuant to § 253(2), generally after deducting the necessary office expenses as provided in § 262, are allocated as follows:

- for counties comprising the metropolitan commuter transportation district, to the metropolitan transportation authority to be applied (i) first, generally to meet the general, administrative and operating expenses of the authority; (ii) second, 55 percent of such revenues to be paid by the metropolitan transportation authority to the transit account of the metropolitan transportation authority special assistance fund; and (iii) the remaining 45 percent to be paid by the metropolitan transportation authority to the commuter railroad account of the metropolitan transportation authority special assistance fund;
- for counties comprising the Niagara Frontier transportation district, to the Niagara Frontier transportation authority;
- for counties comprising the Rochester-Genesee regional transportation district, to the Rochester-Genesee Regional Transportation Authority;
- for those counties comprising the "capital district transportation district," to the capital district transportation authority;

- for those counties comprising the central New York regional transportation district, to the central New York regional transportation authority;
- for Orange County, Rockland County, if any of them withdraws from the metropolitan commuter transportation district, to the county treasurer of such county, if the county provides that the funds will be used for mass transportation purposes, and, if the withdrawn county does not so provide, to the comptroller;
- for Washington County and Warren County, to the county treasurer to pay expenses incurred to support community colleges;
- for Essex County, to the county treasurer to pay expenses incurred for county office and court facility projects;
- for Franklin County, to the county treasurer to pay expenses for county office and county correctional facility projects;
- for Clinton County, to the county treasurer to pay expenses incurred for county office and other capital projects;
- for most of the remaining counties, generally to the comptroller to be paid into the general state fund to the credit of the state purposes account;
- for Cattaraugus County, generally to the comptroller to be paid into the general fund in the state treasury to the credit of the state purposes account for the construction of a county office building and department of public works office building; and
- for Cortland County, after deducting the commissioner's necessary expenses, to the general fund of Cortland County to be used for any county purpose.

### ***§ 253-a mortgage recording tax by a city of one million or more***

If the tax imposed is \$1.25 for each \$100, the city's commissioner of finance sets aside 50 percent in a special account. If the tax imposed is \$1.75 for each \$100, the commissioner sets aside 35.7 percent in that special account. Funds in the special account must be deposited "in the urban mass transit operating assistance account of the mass transportation operating assistance fund of any amount of insufficiency certified by the state comptroller," pursuant to certain details set forth in § 253-a.

### ***Nassau County recording tax***

Although apparently no longer authorized, tax proceeds from the Nassau County recording tax generally were paid to the Nassau County treasurer, who, after deducting necessary office expenses, allocated them as follows:

- if during the first sixteen months of the tax, deposited in the county general fund to be used for county purposes; and
- if paid thereafter, deposited in the Nassau County deficit bond fund.

### ***Yonkers recording tax***

The balance of all funds received from the tax, after deducting necessary office expenses, are generally deposited in the Yonkers city general fund to be used for city purposes.

### ***Broome County taxes (§ 253-e)***

The balance of funds received from the tax, after deducting the necessary office expenses, are generally deposited into the Broome County general fund, to be apportioned by the county legislature to fund the county office for aging.

### ***Rockland County taxes (§ 253-f)***

The balance of funds received from the tax, after deducting the necessary office expenses, are generally deposited into the county general fund, to be apportioned by the county legislature to the county's general fund to be used for any county purpose.

### ***Westchester County taxes (§ 253-g)***

The balance of funds received from the tax, after deducting the necessary office expenses, are generally deposited into the county general fund, to be used for any county purpose.

### ***Other County taxes***

The balance of funds received from the tax, after deducting the necessary office expenses, are generally deposited into the appropriate county general fund, to be used for any county purpose. For Tompkins County, the balance of funds are allocated to the county treasurer for mass transportation purposes.

Section 253-a amended 1990; § 253-c enacted 1992; §§ 253-e and 1449-p enacted 1994; § 1449-bb amended 2002; § 253-f amended 2015; § 253-g enacted 2004; § 149-bbbb enacted 2005; § 253-i enacted 2005 and renumbered 2006; §§ 253-j and 253-l through 253-r enacted 2006; § 253-h amended 2007; § 253-v enacted 2007; § 253-w enacted 2008; § 253 amended 2016; §§ 253-x and 253-x\*2 enacted 2009; § 1421 amended 2019; § 261 amended 2006 and extended 2013; regulation effective 1990; §§ 253-k, and 253-j\*4 extended 2015; §§ 253-j\*3 and 253-x extended 2015; § 253-v extended 2015; § 261 amended 2017; §§ 253-n, 253-p, extended 2016; §§ 253-s, 253-t, 253-u, extended 2014; §§ 253-w, and 253-x\*2 extended 2016; § 253-d extended 2015.

[N.Y. Tax Law §§ 253, 253-a, 253-c through -y\\*3, 261, 1421, 1449-bb, 1449-bbbb, 1449-p \(2020\)](#); N.Y. Comp. Codes R. & Regs. tit. 20, § 655.2 (2020)

## **New York, Exemptions from Tax**

### **TRANSFER TAX**

The term "conveyance" of real property is defined as not including the following transfers, which are therefore not subject to the tax:

- a devise, bequest or inheritance;
- the creation, modification, assignment, transfer, release, satisfaction, or other changes to a mortgage;
- a mortgage subordination agreement;
- a mortgage severance agreement;
- an instrument perfecting or correcting a recorded mortgage; or
- a tax lien release.

The transfer tax does not apply to the following:

- to New York state, or any of its agencies, instrumentalities, subdivisions, or public corporations; and
- generally, to the United Nations, United States, or any of its agencies or instrumentalities.

Also, the following conveyances are exempt from the payment of the real estate transfer tax:

- a transfer to secure a debt or other obligation;

- a deed without additional consideration, that confirms, corrects, modifies or supplements a prior conveyance;
- a conveyance of real property without consideration, including gifts;
- a tax sale;
- generally, a deed to change the identity or form of ownership or organization where there is no change in beneficial ownership;
- a partition deed;
- a deed pursuant to the federal bankruptcy act;
- an "execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property";
- an option or contract to purchase real property, if the consideration is less than \$200,000, the grantor used the property solely as his personal residence, the property consists of a one-, two- or three-family house or an individual residential condominium unit, or certain sales involving stock in a cooperative housing corporation; or
- a conveyance of real property located in an approved tax-free New York area to businesses located in an area that is participating in the START-UP NY program.

See N.Y. Comp. Codes R. & Regs. tit. 20, § 575.7 for additional provisions related to determining whether a lease transaction is subject to the transfer tax.

### ***Nassau Country transfer tax***

The following are exempt from the Nassau county real estate transfer tax:

- New York state, or any of its agencies, instrumentalities, subdivisions, or public corporations; and
- the United Nations, United States, or any of its agencies and instrumentalities.

The tax also does not apply to any of the following conveyances:

- a transfer to the United Nations;
- a transfer to the United States, New York state, or the instrumentalities, agencies or subdivisions of either;
- a transfer to secure a debt or other obligation;
- a deed, without additional consideration, that confirms, corrects, modifies or supplements a prior conveyance;
- a gift;
- a tax sale;

- a change in identity or ownership form where there is no change in beneficial ownership, other than certain conveyances to a cooperative housing corporation;
- a partition deed;
- a deed given pursuant to the federal bankruptcy act; and
- a transfer that consists of "the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property."

***Peconic Bay transfer tax***

The following are exempt from the payment of the real estate transfer tax:

- New York state, or any of its agencies, instrumentalities, subdivisions, or public corporations; and
- the United Nations, United States, or any of its agencies or instrumentalities.

Also, the tax does not apply to any of the following conveyances:

- a transfer to the United Nations, United States, New York state, or any of their instrumentalities, agencies or subdivisions;
- a deed that secures a debt or other obligation;



- a deed, without consideration, that confirms, corrects, modifies or supplements a previously recorded deed;
- a gift;
- a tax sale;
- a mere change in the identity or form of ownership where there is no change in beneficial ownership, other than certain conveyances to a cooperative housing corporation;
- a partition deed;
- a deed given pursuant to the federal bankruptcy act;
- a transfer that consists of "the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property";
- a transfer in which the entire parcel is the subject of one of the following development restrictions: (a) an agricultural, conservation, scenic, or an open space easement; (b) a covenant or restriction prohibiting development; (c) a development rights purchase agreement; (d) a development rights transfer agreement, if the property had its development rights removed; (e) subject to an agricultural district's development restrictions; or (f) real property subject to a locally adopted land preservation agreement;
- a transfer of the property that is certain viable agricultural land and the entire property is to be subject to one of the development restrictions listed above, precluding its conversion to a non-agricultural use for at least three years from the date of transfer;
- a transfer of property for open space, parks, or historic preservation purposes; and

- a conveyance of real property to a tax exempt corporation, if the purpose of the conveyance is to provide affordable housing opportunities and the corporation is incorporated to providing housing opportunities.

See § 1449-ee for additional exemptions, including exemptions for certain first-time homebuyers, in certain towns.

### ***Broome County transfer tax***

The following are exempt from payment of the Broome County real estate transfer tax:

- New York state, or any of its agencies, instrumentalities, political subdivisions, or public corporations; or
- the United Nations, United States, and any of its agencies and instrumentalities.

The governmental body exemption does not relieve a grantee from liability for the tax.

The tax does not apply to the following conveyances:

- a transfer to the United Nations, United States, New York state, or any of their instrumentalities, agencies, subdivisions, or public corporations;
- a deed to secure a debt or other obligation;
- a deed, without additional consideration, that confirms, corrects, modifies or supplements a prior conveyance;

- a gift;
- a tax sale;
- a deed merely changing the identity or form of ownership or organization, if there is no ownership change, except conveyances to a cooperative housing corporation;
- a partition deed;
- a transfer pursuant to the federal bankruptcy act;
- "the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property"; and
- an option or purchase contract if the consideration is less than \$200,000 and the grantor used the property solely as his personal residence, the property consists of a one- to three-family house or an individual residential condominium unit, or certain sales of stock in a cooperative housing corporation.

### ***Warwick transfer tax***

The following are exempt from the real estate transfer tax:

- the state of New York, or any of its agencies, instrumentalities, political subdivisions, or public corporations; and
- the United Nations, the United States of America, or any of its agencies or instrumentalities.

The tax does not apply to conveyances:

- to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions;
- that are or were used to secure a debt or other obligation;
- that, without additional consideration, confirm, correct, modify, or supplement a previously recorded deed;
- without consideration and other than in connection with a sale, including bona fide gifts;
- connected to a tax sale;
- to effectuate a "mere change of identity or form of ownership or organization where there is no change in beneficial ownership, other than conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings";
- that consist of a deed of partition;
- given pursuant to the federal bankruptcy act;
- that consist of the execution of a contract to sell real property without the use or occupancy of the property (or the granting of an option to purchase real property without the use or occupancy of such property);
- where the entire parcel is the subject of one or more of the following development restrictions: (1) an agricultural, conservation, scenic, or open-space easement; (2) a covenant

or restriction prohibiting development; (3) a purchase of development rights agreement; (4) a transfer of development rights agreement, if the development rights have been removed; (5) the property is subject to the development restriction of an agricultural district or individual commitment; or (6) the real property is subject to any locally adopted land preservation agreement, if the exemption is included in the local law imposing the tax;

- of real property, if the property is viable agricultural land and the entire property to be conveyed is to be made subject to one of the development restrictions described above and (1) the development restriction precludes the conversion of the property to a non-agricultural use for at least three years from the transfer date; and (2) the development restriction is evidenced by an easement, agreement, or other suitable instrument that is to be conveyed to the town simultaneously with the property's conveyance; or
- of real property for open space, parks, or historic preservation purposes to any not-for-profit tax exempt corporation operated for conservation, environmental, or historic preservation purposes.

The following exemptions are allowed:

- \$100,000 on the consideration of the conveyance of improved real property; and
- \$50,000 on the consideration of the conveyance of unimproved real property.

### ***Tompkins County transfer tax***

The following are exempt from payment of the Tompkins County real estate transfer tax:

- New York state, and any of its agencies, instrumentalities, political subdivisions, or public corporations; or
- the United Nations, United States, and any of its agencies and instrumentalities.

The governmental body exemption does not relieve a grantee from liability for the tax.

The tax does not apply to the following conveyances:

- a transfer to the United Nations, United States, New York state, or any of their instrumentalities, agencies, subdivisions, or public corporations;
- a deed to secure a debt or other obligation;
- a deed, without additional consideration, that confirms, corrects, modifies, or supplements a prior conveyance;
- a gift;
- a tax sale;
- a deed merely changing the identity or form of ownership or organization, if there is no ownership change, except conveyances to a cooperative housing corporation;
- a partition deed;
- a transfer pursuant to the federal bankruptcy act;
- "the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property"; and

- an option or purchase contract if the consideration is less than \$200,000 and the grantor used the property solely as his personal residence, the property consists of a one- to three- family house or an individual residential condominium unit, or certain sales of stock in a cooperative housing corporation.

## **MORTGAGE RECORDATION TAX**

### ***§ 253 taxes***

The mortgage recording tax does not apply to any mortgage executed by a voluntary nonprofit hospital corporation, fire company or voluntary ambulance service, or any mortgage executed by or granted to "the dormitory authority."

The following mortgages of real property located in New York state are exempt from the mortgage recording tax:

- transferred, assigned or made to the Home Owners' Loan Corporation;
- to an agricultural credit association;
- to a federal home loan bank;
- given or made before June 1, 1934, by any public benefit corporation for the purpose of maintaining and operating a public park and public recreation center;
- to any person or corporation owning a debt or obligation of a public benefit corporation secured by a mortgage;

- of real property that are executed, given or made after June 7, 1934, and substituted for other mortgages as a part of a reorganization plan, to an amount not exceeding the mortgage debt outstanding at the time of the reorganization; or
- executed, given or made by a railroad redevelopment corporation during the first nine years of its existence.

Effective January 1, 2010, mortgages made by certain credit unions are exempt from the special additional mortgage tax imposed by § 253(1-a)(a).

The following are also exempt from the taxes imposed by Article 11:

- mortgages given to secure obligations incurred and given pursuant to § 6-a of the banking law; and
- certain reverse mortgages.

New York regulations also exempt the following from the Article 11 mortgage recording taxes:

- certain mortgages involving the state or federal government;
- mortgages made pursuant to certain confirmed bankruptcy plans;
- a declaration or lien "for common charges";
- mortgages executed by a voluntary non-profit hospital;
- mortgages of a "limited dividend housing company";



- mortgages of certain housing development fund companies;
- mortgages of a limited-profit housing company;
- mortgages of a redevelopment company issued to the federal government, its instrumentality, a municipal housing authority, a public housing agency, or an instrumentality whose obligations are exempt from federal taxation;
- mortgages of community senior citizens centers and service companies;
- mortgages to secure a loan made pursuant to article 8-B of the Private Housing Finance Law;
- mortgages executed by a fund insuring deposits created pursuant to article 6-B of the Banking Law;
- mortgages of a trust created pursuant to article 20 of the Arts and Cultural Affairs Law; or
- mortgages of a community mental health services company or retardation services company.

Section 252 amended 2016; § 252-a amended 1993; § 149-eeee enacted 2005; § 253 amended 2016; § 1401 amended 1994; amended 1989; § 1449-j enacted 1994; § 1449-eee enacted 1999; § 486-a enacted 2008; regulations 575.7, 575.10, and 644.1 effective 1990; r. 575.9 amended 1994; § 1405 amended 2013; § 1449-ee amended 2014.

[N.Y. Tax Law §§ 252, 252-a, 253\(3\), 1401\(e\), 1405, 1449-ee, 1449-eee, 1449-eeee, 1449-eeeeee, 1449-j](#); [N.Y. Banking Law § 486-a \(2020\)](#); N.Y. Comp. Codes R. & Regs. tit. 20, §§ 575.7, 575.9, 575.10, 644.1 (2020)

## New York, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

#### ***§ 253(1) mortgage tax***

New York imposes a tax of \$0.50 for each \$100 (and each major fraction thereof) of principal debt or obligation that is or may be secured by a mortgage on real property situated in New York state. If the principal debt or obligation is less than \$100, a tax of \$0.50 is imposed on the mortgage.

#### ***§ 253(1-a) special additional tax***

In addition to the registration tax imposed by § 253(1), § 253(1-a) imposes a special additional tax on each mortgage of real property located in New York state, unless:

- the mortgagee is a natural person or a specified credit union; and
- the mortgaged premises consist of real property improved by a structure containing six or fewer residential units.

The special additional tax rate is \$0.25 for each \$100 (and each major fraction thereof) of principal debt or obligation that is or may be secured by the mortgage.

#### ***§ 253(2) additional tax***

In addition to the taxes imposed by § 253(1)(a) and 253(a-1), § 253(2) imposes on each mortgage of real property in New York state, another additional tax. The additional tax rate is \$0.25 for each \$100 (and major fraction thereof) of principal debt or obligation for counties outside of the metropolitan commuter transportation district and \$0.30 for each county within the metropolitan commuter transportation district, that is or may be secured by the mortgage, except the first \$10,000 of debt if the related mortgage is of real property consisting of a one- or two-family

residence. "The imposition of this additional tax on mortgages recorded in a county outside the city of New York, other than one of the counties from time to time comprising the metropolitan commuter transportation district, the Niagara Frontier transportation district, the Rochester-Genesee transportation district, the capital district transportation district or the central New York regional transportation district may be suspended for a specified period of time or without limitation as to time by a local law, ordinance or resolution duly adopted by the local legislative body of such county."

***§ 253-a recording tax by a city of one million or more.***

Any New York city with a population of one million or greater, may impose a recording tax. The tax rates are as follows:

- with respect to real property securing a principal debt or obligation of less than \$500,000, \$1.00 for each \$100 (and each major fraction thereof) of principal debt or obligation;
- with respect to one-, two- or three-family houses and individual residential condominium units securing a principal debt or obligation of \$500,000 or more, \$1.125 for each \$100 (and each major fraction thereof) of principal debt or obligation;
- with respect to all other real property, \$1.75 for each \$100 (and each major fraction thereof) of principal debt or obligation; and
- if the principal debt or obligation is less than \$100, \$1.00.

***County recording taxes***

Numerous counties are authorized to impose recording taxes.

***Metropolitan Commuter Transportation District***

The Metropolitan Commuter Transportation District tax, formerly set forth in § 353(1-a) has been repealed.

## **REFINANCED MORTGAGE**

A supplemental instrument or mortgage is subject to taxation if it creates or secures a new or further debt or obligation, in which case, the tax is provided by § 253 and § 253(2)(a) are imposed on the new or further debt or obligation. Otherwise, research located no provisions that specifically address refinanced mortgages.

Section 253-a amended 1990; § 253-c enacted 1992; § 253-e enacted 1994; § 253-f amended 2015; § 253-g enacted 2004; § 253-i enacted 2005; §§ 253-j, 253-l through 253-p, and 253-r enacted 2006; § 253-h amended 2007; §§ 250 and 255 amended 2004; regulatory sections 640.2, 642.1, 642.4, and 642.6 effective 1994; §§ 642.2 and 642.5 effective 1995; §§ 253-v enacted 2007; § 253-w enacted 2008; § 253 amended 2008; §§ 253-x and 253-x\*2 enacted 2009; §§ 253-u and 253-n extended 2010; §§ 253-j\*3 and 253-x extended 2015; §, 253-j\*4, 253-k, and 253-v extended 2015; §§ 253-n, 253-p, 253-s, 253-t, 253-u, 253-w, and 253-x\*2 extended 2016; § 253-d amended 2017.

[N.Y. Tax Law §§ 253, 253-a, 253-c through -y\\*3, 255 \(2020\)](#); N.Y. Comp. Codes R. & Regs. tit. 20, §§ 640.1, 640.2, 642.1, 642.2, 642.3, 642.4, 642.5, 642.6, 655.1 (2020)

## **New York, Other Relevant Provisions**

### **ARTICLE 31-A TAX ON REAL PROPERTY TRANSFERS FOR TRANSPORTATION ASSISTANCE**

Erie County is authorized to impose a tax on each conveyance of real property, if the consideration is greater than \$500. The tax rate is \$2.50 per \$500 (or part thereof). However, the consideration excludes the value of any liens or encumbrances in the following cases:

- a conveyance of a one- to three-family house;
- an individual residential condominium unit; or

- a conveyance in which the consideration is less than \$500.

The grantor is liable for the transportation assistance real estate transfer tax. If the grantor fails to pay the tax or is exempt, the grantee must pay the tax. If the grantee must pay because the grantor failed to pay, the tax is the joint and several liability of the grantor and the grantee.

See § 1428 for entities and transactions that are exempt from the payment of the tax, which exemptions are very similar to those set forth above for the other county taxes.

The taxes collected must be deposited to the Niagara Frontier transportation authority all revenue from the tax, to be used only for operations of mass transportation services provided by the Niagara Frontier transportation authority within the Erie County.

Sections 1425, 1427, and 1428 enacted 1990; § 1432 amended 1990.

[N.Y. Tax Law §§ 1425, 1427, 1428, 1432 \(2020\)](#)

## New York, Party Required to Pay Tax

### **TRANSFER TAX**

#### ***§ 1402 transfer tax***

The grantor must pay the real estate transfer tax. If the grantor fails to pay the tax within the required time or if the grantor is exempt from the tax, the grantee must pay the tax, in which case the tax is the joint and several liability of the grantor and the grantee.

#### ***§ 1402-a additional tax***

The grantee must pay the additional tax. However, the grantor must pay the tax if the grantee is exempt or has failed to timely pay the tax. If the grantor must pay the tax because the grantee has failed to pay it, the tax is the joint and several liability of both parties.

### ***§ 1402-b supplemental tax***

The grantee must pay the additional tax. However, the grantor must pay the tax if the grantee is exempt or has failed to timely pay the tax. If the grantor must pay the tax because the grantee has failed to pay it, the tax is the joint and several liability of both parties.

## **MORTGAGE RECORDATION TAX**

### ***§ 253 taxes***

In cases of real property improved with one or more structures containing a total of no more than six residential dwelling units, the mortgagee must pay the mortgage recording tax imposed by § 253. The mortgagor may not pay the tax, directly or indirectly, unless:

- otherwise provided in §§ 258 and 259; or
- the mortgagee is an exempt organization.

Section 1402 amended 1989; § 1402-a amended 2019; § 1402-b enacted 2019; § 253 amended 2016; regulation effective 1990.

[N.Y. Tax Law §§ 253, 1402-a, 1402-b, 1404 \(2020\)](#); N.Y. Comp. Codes R. & Regs. tit. 20, § 575.4 (2020)

[New York, Transfer Tax Amount](#)

## **STATE TAX**

### ***Transfer tax pursuant to § 1402***

New York imposes a state realty transfer tax on each real property conveyance, provided the consideration exceeds \$500. The tax rate is \$2 for each \$500 (or part thereof). However, consideration excludes the value of any liens or encumbrances with respect to the following conveyances:

- a conveyance of a one-, two- or three-family house and an individual residential condominium unit; or
- a conveyance with consideration of less than \$500,000.

Effective July 1, 2019 on all conveyances thereafter, except for conveyances pursuant to a binding written contract entered into on or before April 1, 2019, the tax rate is \$2 for each \$500 or fractional part thereof on all conveyances of real property or interest therein, *plus* an additional \$1.25 for each \$500 or fractional part thereof of the consideration on such a conveyance within a city having a population of one million or more when: (1) the consideration for the entire conveyance of residential real property is \$3 million or more; and (2) when the conveyance of any other property is \$2 million or more.

"Residential real property" includes any premises that is or may be used in whole or in part as a personal residence, including a one-, two- or three-family house, an individual condominium unit, or a cooperative apartment unit.

See § 1402(b)(1) for provisions that relate only to REIT transfers, in which, generally, the tax rate is \$1.00 for each \$500 (or part thereof) of consideration.

### ***Additional tax pursuant to § 1402-a***

In addition to the tax imposed by § 1402, New York imposes a tax on each conveyance of residential real property with a consideration of \$1 million or more. Generally, the provisions relating to the

administration, collection, determination and distribution of the tax imposed by § 1402 apply to the tax imposed under § 1402-a. The tax rate is one percent of the consideration attributable to the residential real property.

**Supplemental tax pursuant to § 1402-b** (effective July 1, 2019 on all conveyances thereafter, except for conveyances pursuant to a binding written contract entered into on or before April 1, 2019)

In addition to the taxes imposed by §§ 1402 and 1402-a, a tax is imposed on each conveyance of real property or interest therein within a city with a population of one million or more when the consideration is \$2 million or more, at the rate of:

- .25 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$2 million but less than \$3 million;
- .50 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$3 million but less than \$5 million;
- 1.25 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$5 million but less than \$10 million;
- 2.25 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$10 million but less than \$15 million;
- 2.50 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$15 million but less than \$20 million;
- 2.75 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$20 million but less than \$25 million; and



- 2.90 percent of the consideration or part thereof attributable to the property when such consideration for the entire conveyance is at least \$25 million.

"Residential real property" includes "any premises that is or may be used in whole or in part as a personal residence," and includes a one-, two- or three-family house, an individual condominium unit, or a cooperative apartment unit.

### **CITY OR COUNTY TAX**

Certain counties and municipalities within New York are also authorized to impose their own transfer taxes.

#### ***New York City***

New York City imposes a real property transfer tax on "grants, assignments, transfers, or surrenders of real property in New York City." Generally, the type of property and the tax rate for that conveyance determine the amount of the tax. In a conveyance of a one- to three-family house, an individual residential condominium unit, or an individual cooperative apartment or in a transfer of certain residential leasehold interests,

- if the consideration is \$500,000 or less (but more than \$25,000), the rate is one percent of the consideration; and
- if the consideration is more than \$500,000, the rate is 1.425 percent.

For all other transfers,

- if the consideration is \$500,000 or less, the rate is 1.425 percent; and
- if the consideration is more than \$500,000, the rate is 2.625 percent.

Statutory section § 1402 amended 2020; § 1402-a amended 2019; § 1402-b enacted 2019; § 1201 amended 2020; regulations effective 1990; informational bulletin dated 2008.

[N.Y. Tax Law §§ 1201, 1402, 1402-a, 1402-b \(2020\)](#); N.Y. Comp. Codes R. & Regs. tit. 20, §§ 575.2, 575.3 (2020); *see generally*, [N.Y. Dep't Tax. & Fin., Tech. Memo. TSB-M-19\(1\)\(A\), Summary of Amendments to New York's Real Estate Transfer Tax \(June 11, 2019\)](#)

## North Carolina

### North Carolina, Earmarked Use for Tax

#### **TRANSFER TAX**

Each county's register of deeds must remit the proceeds of the transfer tax to the county finance officer, who must:

- credit one-half of the proceeds to the county's general fund; and
- remit the remaining one-half of the proceeds, less refunded taxes and the county's administrative expense allowance, to the Department of Revenue.

The county may retain two percent of the proceeds allocated to the Department of Revenue as compensation for the county's costs.

As of July 1, 2013, the Department of Revenue must allocate the funds credited to it to the General Fund.

#### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2013.

[N.C. Gen. Stat. § 105-228.30 \(2019\)](#)

## North Carolina, Exemptions from Tax

### **TRANSFER TAX**

The transfer tax does not apply to any of the following transfers of a real property interest:

- by operation of law;
- by "lease for a term of years";
- by the provisions of a will;
- by intestacy;
- by gift;
- if no consideration is due or paid by the transferee to the transferor;
- by merger;
- by conversion;
- by consolidation; or

- by an instrument securing a debt.

The conveyance tax also does not apply to a governmental unit conveying a real estate interest.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Sections amended 1999.

[N.C. Gen. Stat. §§ 105-228.28, .29 \(2019\)](#)

### North Carolina, Mortgage Recordation Tax Amount

#### **INITIAL MORTGAGE**

No applicable provisions were located, but North Carolina does impose a filing fee for recording a mortgage, which fee is based on the document's length and number of additional instruments.

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2018.

[N.C. Gen. Stat. § 161-10 \(2019\)](#)

### North Carolina, Other Relevant Provisions

No other relevant provisions were located.

## North Carolina, Party Required to Pay Tax

### **TRANSFER TAX**

The transferor must pay the transfer tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2013.

[N.C. Gen. Stat. § 105-228.30 \(2019\)](#)

## North Carolina, Transfer Tax Amount

### **STATE TAX**

North Carolina levies a state excise tax on any instrument by which a person conveys a real property interest. The tax rate is \$1.00 for each \$500 (or part thereof) of the consideration or value of the conveyed interest.

### **CITY OR COUNTY TAX**

North Carolina's county land transfer tax was repealed effective March 31, 2011.

Section 105-228.30 amended 2013; §§ 105-601, 105-602, and 105-603 repealed 2011.

[N.C. Gen. Stat. § 105-228.30 \(2019\); 2011 N.C. Sess. Laws ch. 18](#)

## North Dakota

### North Dakota, Earmarked Use for Tax

No applicable provisions were located.

### North Dakota, Exemptions from Tax

No applicable provisions were located.

### North Dakota, Mortgage Recordation Tax Amount

#### **INITIAL MORTGAGE**

No applicable provisions were located, but North Dakota laws impose a filing fee for recording a mortgage, which fee is based on the document's length.

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2017.

[N.D. Cent. Code § 11-18-05 \(2019\)](#)

### North Dakota, Other Relevant Provisions

No other relevant provisions were located.

### North Dakota, Party Required to Pay Tax

No applicable provisions were located.

### North Dakota, Transfer Tax Amount

No applicable provisions were located. North Dakota submitted to its electorate at the 2014 general election a new section to the Constitution of North Dakota providing that neither the state nor any county, township, city, or other political subdivision may impose "any mortgage taxes or any sales or transfer taxes on the mortgage or transfer of real property." The ballot measure passed, so transfer taxes are now constitutionally banned in North Dakota.

Constitutional ballot measure passed 2014.

[N.D. Const. art. X, § 27](#)

## Ohio

### Ohio, Earmarked Use for Tax

#### **TRANSFER TAX**

##### ***General transfer tax***

The general fees on conveyances are credited to the county's general fund.

##### ***County transfer taxes***

The funds collected by a county levying a real property transfer tax or a manufactured home transfer tax pursuant to §§ 322.01 to 322.07 are allocated as follows:

- first, to pay the costs incurred by the county in administering and enforcing the tax; and
- the balance, to the county general fund to be used for any purpose for which the general fund may be used, except the fees received pursuant to § 319.54(G)(3) for a transfer of real property to a county land reutilization must be credited to the county land reutilization corporation fund.

#### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 322.03 amended 1999; § 319.54 amended 2017.

[Ohio Rev. Code §§ 319.54\(G\), 322.03 \(2019\)](#)

## Ohio, Exemptions from Tax

### **TRANSFER TAX**

#### ***General transfer tax***

The general transfer fee does not apply if the transfer is made:

- to or from the United States, Ohio, or any instrumentality, agency, or political subdivision of either;
- to provide or release security for a debt or obligation;
- to confirm or correct a previously recorded deed;
- when a current owner "on the general tax list of real and public utility property and the general duplicate of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and is changing the current owner name listed on the general tax list of real and public utility property and the general duplicate of real and public utility property to the initials of the current owner," as provided by § 319.28(B)(1);
- to evidence a gift between husband and wife or parent and child;
- on sale for delinquent taxes or assessments;



- pursuant to a court order, to the extent that the transfer is not the result of a sale;
- pursuant to a reorganization or dissolution, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares;
- by a subsidiary to its parent corporation for no consideration or nominal consideration, or in consideration of the cancellation or surrender of the subsidiary's stock;
- by lease, unless for a term of years renewable forever;
- if the value of the real property or the manufactured or mobile home does not exceed \$100;
- of an occupied residential property being transferred to a new residence builder or a new manufactured or mobile home dealer, provided the former residence is traded as part of the consideration for the new residence or new manufactured or mobile home;
- to a grantee (other than a dealer), "solely for the purpose of, and as a step in, the prompt sale of the real property or manufactured or mobile home to others";
- if no money or other valuable and tangible consideration is paid or to be paid for the real estate or manufactured or mobile home and the transaction is not a gift;
- pursuant to §§ 317.22(B) or 2113.61, between spouses or to a surviving spouse pursuant to § 5302.17, between persons pursuant to §§ 5302.17 or 5302.18, or to a person who is "a surviving, survivorship tenant";
- to a trustee acting on behalf of a deceased's minor children;

- of an easement with a value not greater than \$1000;
- of property sold to a surviving spouse;
- to or from an organization exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code, provided the transfer is without consideration and is in furtherance of the organization's charitable or public purposes;
- among the heirs at law or devisees of a common decedent, if no monetary consideration is paid;
- to a trustee, provided the trust grantor has reserved an unlimited power to revoke the trust;
- to a trust's grantor by the trust's trustee, provided the transfer is pursuant to the grantor's exercise of power to revoke the trust or withdraw trust assets;
- to the beneficiaries of a trust, provided the fee was paid on the transfer from the trust grantor to the trustee or the transfer was made pursuant to trust provisions that became irrevocable upon the grantor's death;
- to a corporation for certain sports facilities;
- between persons pursuant to § 5302.18; or
- from a county land reutilization corporation (or its wholly owned subsidiary) to a third party.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2017.

[Ohio Rev. Code § 319.54\(G\) \(2019\)](#)

## Ohio, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the county recorder collects a nominal recording fee, which varies based on the document's length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019.

[Ohio Rev. Code § 317.32 \(2019\)](#)

## Ohio, Other Relevant Provisions

### **MANUFACTURED HOME TRANSFER TAX**

A county may collect a manufactured home transfer tax on each certificate of title that conveys, by resale on or after January 1, 2000, a used manufactured or mobile home. The tax rate is equal to the real property transfer tax rate of the county, as adopted pursuant to § 322.02. Except as provided in § 322.07(B), the county must levy the manufactured home transfer tax at a uniform rate. The grantor pays the tax.

Section enacted 1999.

[Ohio Rev. Code § 322.06 \(2019\)](#)

## Ohio, Party Required to Pay Tax

### **TRANSFER TAX**

#### ***General transfer tax***

The purchaser must pay the tax on deeds of land sold for taxes. The person requiring the transfer must pay the tax on a used manufactured or mobile home. Ohio statutes do not specify which party pays the tax for receiving statements of value.

#### ***County transfer taxes***

The grantor must pay the county transfer taxes.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 322.02 amended 2011; § 319.54 amended 2017.

[Ohio Rev. Code §§ 319.54\(G\), 322.02 \(2019\)](#)

## Ohio, Transfer Tax Amount

### **STATE TAX**

The general realty transfer fees are as follows:

- \$5, for deeds to land sold for taxes;
- \$0.50, for the transfer of a used manufactured or mobile home; or
- either (a) \$1.00 or (b) \$.10 for each \$100 (or part thereof), whichever is greater, for receiving statements of value and administering § 319.202.

### **CITY OR COUNTY TAX**

A county may levy a real property transfer tax on each deed conveying real property located within the county's boundaries. The tax rate may not exceed \$0.30 per \$100 (or fraction thereof) of the value of the real property.

The board of county commissioners may prescribe a lower rate to apply to a deed conveying a homestead receiving a tax reduction pursuant to § 323.152(A) and to any manufactured home transfer tax levied pursuant to § 322.06.

Section 322.07 amended 2008; § 322.02 amended 2011; § 319.54 amended 2017.

[Ohio Rev. Code §§ 319.54\(G\); 322.02, .07 \(2018\)](#)

## Oklahoma

### Oklahoma, Earmarked Use for Tax

#### **TRANSFER TAX**

*Until June 30, 2019, \$0.55 of each \$0.75 of transfer tax collected is allocated as follows:*

- 5 percent to be retained by county clerks and paid into the county general fund as the cost of administration; and
- 95 percent to the state General Revenue Fund to be expended as determined by legislative appropriation.

The remaining \$0.20 of each \$0.75 is paid into the county general fund.

*Effective July 1, 2019, \$0.55 of each \$0.75 of transfer tax collected is allocated as follows:*

- 5 percent to be retained by county clerks as their cost of administration; and
- the remaining 95 percent the Oklahoma Tax Commission shall transfer monthly to the County Government Education-Technical Revolving Fund for the fiscal year ending June 30, 2020, and for each fiscal year thereafter, \$500,000 plus three percent of the remainder, with the remainder transferred by the Commission to the General Revenue Fund of the State Treasury to be expended pursuant to legislative appropriation.

The remaining \$0.20 of each \$0.75 is paid into the county general fund.

### **MORTGAGE RECORDATION TAX**

The county treasurer must credit all money received from the mortgage recording tax to the county's "common school fund."

Section 1910 enacted 1965; § 3204 amended 2018.

[Okla. Stat. Ann. tit. 68, §§ 1910, 3204 \(2019\)](#)

## Oklahoma, Exemptions from Tax

### **TRANSFER TAX**

The transfer tax does not apply to the following:

- a deed recorded before the effective date of §§ 3201—3206;
- a deed that secures a debt or obligation;
- a deed that, without additional consideration, confirms, corrects, modifies or supplements a previously recorded deed;
- a deed between a husband and wife, or a parent and child, or certain other related persons, without consideration;
- a deed between a person and an express revocable trust created by such person or his spouse;
- certain deeds pursuant to which property is transferred from a person to a partnership, limited liability company or corporation;
- a tax deed;
- a release of property that is security for a debt or other obligation;
- a deed "executed by Indians in approval proceedings of the district courts or by the Secretary of the Interior";

- certain partition deeds;
- a deed made pursuant to a merger;
- a deed by a subsidiary to its parent corporation for no consideration other than canceling or surrendering the subsidiary's stock;
- a deed or instrument in which Oklahoma or its instrumentality, agency or subdivision is a party;
- a deed or instrument in which the United States or its agency or department is a party, unless the transfer is to or from a national bank or federal savings and loan association;
- certain deeds executed pursuant to a foreclosure, power of sale, or in consideration of the release of the borrower from liability on the debt secured by the mortgage; or
- a deed and other instrument to which the Oklahoma Space Industry Development Authority or a spaceport user is a party.

### **MORTGAGE RECORDATION TAX**

No mortgage of real property situated in Oklahoma is exempt from the mortgage recording tax, and no person or corporation owning a debt or obligation secured by a mortgage of real property situated in Oklahoma is exempt from the tax for any reason.

Section 1903 enacted 1965; § 3202 amended 2001.

[Okla. Stat. Ann. tit. 68, §§ 1903, 3202 \(2019\)](#)



## Oklahoma, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

The following taxes are levied on real estate mortgages:

- \$0.10 for each \$100 (or part thereof) of a mortgage with a term of five years or longer;
- \$0.08 for each \$100 of a mortgage of at least four years, but less than five years;
- \$0.06 for each \$100 of a mortgage of at least three years, but less than four years;
- \$0.04 for each \$100 of a mortgage of at least two years, but less than three years; and
- \$0.02 for each \$100 of a mortgage of less than two years.

A tax of \$0.10 is levied on a mortgage that secures a principal obligation of less than \$100.

The county treasurer may also collect a \$5 fee on each mortgage presented for certification, which fee the county treasurer may use to operate the treasurer's office.

### **REFINANCED MORTGAGE**

A subsequent mortgage is subject to the tax and fee levied by § 1904 if the mortgage creates or secures a new or additional debt other than the principal debt secured by the recorded primary mortgage. In that case, the tax is levied on the new debt.

Section 1904 amended 2000; § 1905 amended 1996.

[Okla. Stat. Ann. tit. 68, §§ 1904, 1905 \(2019\)](#)

## Oklahoma, Other Relevant Provisions

### **EXEMPTION FROM OTHER TAXES**

All mortgages of real property located in Oklahoma that are subject to the mortgage recording tax, the debts and obligations they secure, and the documents evidencing them, are exempt from "ad valorem and all other taxation by the state, counties, towns, cities, school districts and other local subdivisions of the state," except any income tax payable from the interest received from the mortgage debt.

Section enacted 1965.

[Okla. Stat. Ann. tit. 68, § 1902 \(2019\)](#)

## Oklahoma, Party Required to Pay Tax

### **TRANSFER TAX**

The person who "makes, signs, issues, or sells" the document subject to the tax imposed by § 3203 must pay the tax.

### **MORTGAGE RECORDATION TAX**

The mortgagor, mortgagee or any other interested party may pay the mortgage recording tax.

Section 1904 amended 2000; § 3203 amended 1991.

[Okla. Stat. Ann. tit. 68, §§ 1904, 3203 \(2019\)](#)

## Oklahoma, Transfer Tax Amount

### **STATE TAX**

Oklahoma imposes a tax on each deed, instrument, or writing by which any sold realty is conveyed to or vested in the purchaser, provided the consideration or value (excluding any liens or encumbrances) exceeds \$100. The tax rate is \$0.75 for each \$500 of the consideration (or any part thereof).

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2018.

[Okla. Stat. Ann. tit. 68, § 3201 \(2019\)](#)

## Oregon

### Oregon, Earmarked Use for Tax

No specifically applicable provisions were located.

However, Oregon charges both a nominal general filing fee (as set forth in Ore. Rev. Stat. § 205.320) that is deposited in the county clerk's record fund and three additional recording fees (as set forth in § 205.323) that are earmarked for special uses. The first of these additional fees is credited to the Oregon Land Information System Fund. The second is allocated five percent to the county, five percent for acquiring storage and retrieval systems, and 90 percent to the County Assessment and Taxation Fund. The third additional fee is credited to the County Assessment and Taxation Fund and paid over to the Department of Revenue for deposit in the Housing and Community Services Department accounts for housing-related programs as follows:

- 76 percent to the General Housing Account;

- 10 percent to the Emergency Housing Account; and
- 14 percent to the Home Ownership Assistance Account.

Section 294.187 amended 2011; § 205.320 amended 2019; § 205.323 amended 2018.

[Or. Rev. Stat. §§ 294.187, 205.320, 205.323 \(2019\)](#)

## Oregon, Exemptions from Tax

No generally applicable provisions were located. However, the department of revenue is not required to pay any filing, indexing, or recording fees to the county in connection with the filing, recording, release, or satisfaction of liens against tax-deferred properties in advance or at the time entry is made.

Section 311.675 amended 2015.

[Or. Rev. Stat. § 311.675 \(2019\)](#)

## Oregon, Mortgage Recordation Tax Amount

No applicable provisions were located. However, Oregon imposes recording fees for certain documents, including mortgages.

Section 205.130 amended 2015; § 205.320; amended 2019, and § 205.323 amended 2018.

[Or. Rev. Stat. §§ 205.130, .320, .323 \(2019\)](#)

## Oregon, Other Relevant Provisions

No other relevant provisions were located.

## Oregon, Party Required to Pay Tax

No applicable provisions were located.

## Oregon, Transfer Tax Amount

Except for fees established under § 203.148 relating to the Public Land Corner Preservation Fund, the nominal recording fee set forth in § 205.323, or other fees in effect as of March 31, 1997, no Oregon city, county, district or other political subdivision or municipal corporation may impose a tax or fee upon the transfer of a fee estate in real property "or measured by the consideration paid or received upon transfer of a fee estate in real property."

Ballot measure 79, which passed in the state's general election on November 6, 2012, amends the Oregon Constitution to prohibit the state and local governments from imposing taxes, fees, or other assessments on the transfer of real property. The provision does not apply to a tax, fee, or other assessment that was effective and operative on December 31, 2009.

Section 306.815 amended 2018; § 203.148 amended 1991; § 205.323 amended 2018; measure 79 passed 2012.

See [Or. Rev. Stat. §§ 306.815, 203.148, 205.323 \(2019\)](#) [Or. Const. art. IX, § 15](#)

## Pennsylvania

### Pennsylvania, Earmarked Use for Tax

#### **TRANSFER TAX**

The recorder of deeds must pay to the county's general fund, the greater of:

- a commission of one percent of the face value of the tax stamps sold; or
- \$250.

All other amounts must be credited to the general fund. At the end of each month, the state treasurer must transfer 15 percent of the amount credited to the general fund to the Keystone Recreation, Park and Conservation Fund.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2006.

[72 Pa. Stat. § 8106-C \(2020\)](#)

## Pennsylvania, Exemptions from Tax

### **TRANSFER TAX**

The following parties are exempt from the transfer tax:

- the United States;
- the Commonwealth;
- any instrumentality, agency or subdivision of either; or
- veterans' service organizations.

The following transactions are excluded from the state transfer tax:

- a transfer to the Commonwealth or any of its subdivisions by "gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings," or a reconveyance by a condemning body to the owner at the time of condemnation, provided the reconveyance is made within one year from the condemnation date;

- a document that may not be taxed under federal law;
- an acquisition by a municipality, township, school district or county of tax delinquent property at a sheriff or tax claim bureau sale;
- a transfer for nominal consideration that corrects or confirms a previously recorded transfer, but does not extend or limit the existing legal title or interest;
- certain transfers of "division in kind" for no or nominal consideration of property passed by testate or intestate succession and held by cotenants;
- a transfer between husband and wife;
- a transfer between persons who were husband and wife, but have since been divorced, provided the couple acquired the property before the final divorce decree;
- a transfer between parent and child (or the child's spouse), a stepparent and a stepchild (or the stepchild's spouse), siblings, or a grandparent and grandchild, except that if the grantee subsequently transfers within one year, the transfer is subject to tax as if the grantor were making the transfer;
- a transfer for nominal consideration passing by testate or intestate succession from a decedent's personal representative to his devisee or heir;
- certain transfers for nominal consideration to a trustee of an ordinary trust;
- a transfer for nominal consideration from a trustee of a living trust to the settlor;

- certain transfers for nominal consideration from a trustee of an ordinary trust to a specifically named beneficiary or a contingent beneficiary;
- a transfer for nominal consideration from a trustee of a living trust after the death of the settlor or from a trustee of a trust created pursuant to the decedent's will to the beneficiary to whom the property is devised or bequeathed;
- a transfer for nominal consideration from the trustee of a living trust to its settlor, if the settlor originally conveyed the property to the trustee;
- a transfer for nominal consideration from a trustee to the successor trustee;
- certain transfers for nominal consideration involving a straw party;
- a transfer made pursuant to a statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, unless the primary intent was to avoid the tax;
- certain transfers from a corporation or association of real estate held in the entity's name;
- a transfer from a nonprofit industrial development agency to a grantee of property conveyed as security for a debt;
- certain transfers from a nonprofit industrial development agency or authority to a grantee purchasing directly from it;
- a transfer in lieu of a foreclosure or pursuant to a judicial sale in which the successful bidder is the mortgage holder, unless the holder assigns the bid to another person;



- a transfer between religious organizations, if the real estate has not been used for commercial purposes;
- a transfer to a conservancy;
- a transfer from a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions;
- a transfer from a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement, provided the conservancy has owned the real estate for at least two years immediately before the transfer;
- 
- a transfer of an agricultural conservation easement to or from the Commonwealth, a county, a local government unit or a conservancy under authority of the "Agricultural Area Security Law";
- a transfer of a conservation easement or preservation easement under the "Conservation and Preservation Easements Act";
- a transfer of a perpetual historic preservation easement, a perpetual public trail easement or other perpetual public recreational use easement, a perpetual scenic preservation easement or a perpetual open-space preservation easement to or from the United States, the Commonwealth, a county, a local government unit or a conservancy;
- a transfer of agricultural real estate devoted to a family farm business by a member of the same family that directly owns at least 75 percent of the entity or by a family farm business, if the family directly owns at least 75 percent of each class of stock or interests;
- a transfer between members of the same family of an ownership interest in a real estate company or family farm business that owns real estate;
- a transaction in which the tax due is \$1 or less;

- a lease for producing or extracting coal, oil, natural gas or minerals;
- a real estate transfer for no or nominal consideration from the Commonwealth or any of its instrumentalities, agencies, or political subdivisions to a volunteer emergency medical services agency, fire company, or rescue company;
- a real estate transfer between two or more volunteer emergency medical services agencies, fire companies, or rescue companies; or
- a transfer of real estate to or by a land bank.

Pennsylvania regulations also provide that the following, among others, are exempt:

- certain transfers to shareholders;
- a "financing transaction evidenced by a deed of trust, defeasible deed or other instrument of like character given as a security for a debt, a lease to the debtor or a deed of release";
- certain real estate leases or occupancy agreements;
- a transfer of a deed to a burial site, which deed does not convey title to land;
- the rescission, cancellation, or abandonment of an existing lease or contract for deed if the rescission, cancellation, or abandonment is for no (or nominal) consideration or the remaining term is less than 30 years;
- a sublease or the assignment of a lessee's rights under an existing lease;

- the transfer of an easement for public utility services;
- certain contracts for deed in which legal title does not pass to the purchaser until the total consideration has been paid;
- the assignment of a buyer's rights, under a contract for deed, unless the buyer is released from performance;
- if cotenants partition realty into distinct portions, the value of each portion is not taxable "to the extent of the grantee's prior interest";
- a transfer to and certain transfers from industrial development authorities; and
- certain additional transfers by will or under intestate law.

See "Transfer Tax Amount: City or County Tax" for exemptions to local taxes.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section 8102-C.2 amended 2017; § 8102-C.3 amended 2019; regulatory sections 91.157, 91.158, 91.159, and 91.192 adopted 1988; r. 91.193 amended 2007.

[72 Pa. Stat. §§ 8102-C.2, -C.3 \(2020\)](#); [61 Pa. Code §§ 91.157, .158, .159, .192, .193 \(2020\)](#)

Pennsylvania, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No specifically applicable provisions were located. However, counties charge standard filing fees for recording deeds and other documents. For example, standard filing fees for "counties of the second class" are set forth in Pa. Stat. Ann. tit. 16, § 11411.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2001.

See [16 Pa. Stat. § 11411 \(2020\)](#)

### **Pennsylvania, Other Relevant Provisions**

No other relevant provisions were located.

### **Pennsylvania, Party Required to Pay Tax**

### **TRANSFER TAX**

Unless otherwise provided, the tax is the joint and several obligation of the parties to the transaction, but the parties may discharge the duty as they agree.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Regulation adopted 1988.

[61 Pa. Code § 91.191 \(2020\)](#)

## Pennsylvania, Transfer Tax Amount

### **STATE TAX**

Pennsylvania imposes a tax of one percent of the value of any Pennsylvania real estate represented by a document to be recorded.

### **CITY OR COUNTY TAX**

Authorities of certain political subdivisions may levy a tax on a real property transfer, to the extent that the transactions are subject to the tax imposed by Article XI-C.

Each political subdivision levying a local services tax must exempt the following persons:

- a person who has served in a war or armed conflict and is honorably discharged or released from active service if, as a result of his or her military service, "the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent permanent disability"; and
- a person who serves as a member of a reserve component of the armed forces and is called to active duty.

Each political subdivision with a local services tax at a rate greater than \$10 must (and each political subdivision with a local services tax at a rate of \$10 or less may) exempt a person from the tax if his or her total earned income and net profits is less than \$12,000 for the calendar year in which the subdivision levies its tax.

Local authorities do not have the authority to levy a tax on the transfer of real property if the transfer is, among others:

- by will or mortgage or pursuant to Pennsylvania's intestate laws;
- by the owner of previously occupied residential premises to a builder of new residential premises if the builder is taking the premises in trade;
- a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the corporation's shareholders;
- between nonprofit industrial development agencies and industrial corporations;
- to or from nonprofit industrial development agencies;
- between husband and wife or divorced spouses, if certain other specified requirements are met;
- between certain specified family members;
- to certain tax-exempt conservancies;
- by and between a principal and a straw party;
- on a correctional deed without consideration;
- to the United States or Pennsylvania, or any of their instrumentalities, agencies, or political subdivisions;
- by gift, dedication, or deed in lieu of condemnation;

- within a family, from a sole proprietor family member to a family farm corporation;
- in any sheriff sale instituted by a mortgagee in which the mortgagee is the purchaser;
- on a "privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee";
- for no or nominal consideration, from Pennsylvania or any of its instrumentalities, agencies, or subdivisions, to a volunteer emergency medical services agency or a volunteer fire or rescue company; or
- between two or more volunteer emergency medical services agencies or volunteer fire or rescue companies.

Statutory section 8102-D amended 2005; § 8102-C amended 2013; § 6924.301.1 amended 2014; regulatory section adopted 1988.

[Pa. Stat. tit. 72, §§ 8102-C, -D; tit. 53, § 6924.301.1 \(2020\); 2007 Pa. Laws ch. 7; 61 Pa. Code § 91.111 \(2020\)](#)

## Puerto Rico

### Puerto Rico, Earmarked Use for Tax

#### **TRANSFER TAX**

See "presentation fee" provisions below.

#### **MORTGAGE RECORDATION TAX**

Of each presentation fee collected, \$8 is deposited into a special fund under the Secretary of the Treasury's custody, for the Secretary of Justice's exclusive use to defray the costs of designing, establishing and operating a modern and mechanized Property Registry system throughout Puerto Rico, including the following:

- acquiring, leasing, installing, maintaining or repairing equipment;
- training and hiring personnel or consultants;
- leasing sites;
- acquiring supplies;
- adopting regulations; and
- any other expense related to the design, establishment and operation of a modern mechanized system.

Once the modernization and mechanization of the Property Registry is completed and all expenses have been paid, the special fund will be eliminated, and the sums will be deposited into the General Fund.

Section amended 2010.

P.R. Laws tit. 30, § 1767a (LexisNexis 2019)

## [Puerto Rico, Exemptions from Tax](#)

No applicable provisions were located.

## [Puerto Rico, Mortgage Recordation Tax Amount](#)



## **INITIAL MORTGAGE**

Puerto Rico assesses a fee for the "recording, notation, cancelling, release, with respect to each property right":

- if the estate or right is valued at \$1,000 or less, \$2;
- if the value of the estate or right is greater than \$1,000, but less than or equal to \$25,000, \$2 for each \$1,000 (or fraction thereof); and
- if the value of the estate or right is greater than \$25,000, \$50 for the first \$25,000 and \$4 for each additional \$1,000 dollars (or fraction thereof).

However, notwithstanding the above, the fees for recording a contract with an option to purchase is limited to \$25.

## **REFINANCED MORTGAGE**

No specifically applicable provisions were located; however, the fee for annotating the "priority reservation of a contract being negotiated" is limited to a maximum of \$25.

Section amended 2010.

P.R. Laws tit. 30, § 1767a (LexisNexis 2019)

### [Puerto Rico, Other Relevant Provisions](#)

No other relevant provisions were located.

### [Puerto Rico, Party Required to Pay Tax](#)

No applicable provisions were located.

## Puerto Rico, Transfer Tax Amount

### **TERRITORY TAX**

Puerto Rico assesses a fee for the "recording, notation, cancelling, release, with respect to each property right":

- if the estate or right is valued at \$1,000 or less, \$2;
- if the value of the estate or right is greater than \$1,000, but less than or equal to \$25,000, \$2 for each \$1,000 (or fraction thereof); and
- if the value of the estate or right is greater than \$25,000, \$50 for the first \$25,000 and \$4 for each additional \$1,000 dollars (or fraction thereof).

However, notwithstanding the above, the fees for recording a contract with an option to purchase is limited to \$25.

### **CITY OR COUNTY TAX**

No specifically applicable provisions were located.

Section amended 2010.

P.R. Laws tit. 30, § 1767a (LexisNexis 2019)

## Rhode Island

### Rhode Island, Earmarked Use for Tax

## **TRANSFER TAX**

The transfer tax proceeds are allocated as follows:

- \$.30 per \$2.30 to the distressed community relief program;
- \$.30 per \$2.30 to the housing resources commission restricted receipts account;
- \$.60 per \$2.30 to the state for state use; and
- the balance to the municipality collecting the tax.

Effective July 1, 2015, in the case of the tax on the grant, transfer, assignment, or conveyance or vesting related to an acquired real estate company, the tax is distributed to the municipality in which the real estate is located.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Ten percent of the documentary recording fee must be used for document preservation and technological updates.

Section 34-13-7 amended 2012; § 44-25-1 amended 2015.

[R.I. Gen. Laws §§ 34-13-7; 44-25-1\(c\) \(2018\)](#)

Rhode Island, Exemptions from Tax

## **TRANSFER TAX**

The following are exempt from the transfer tax:

- an instrument or writing given to secure a debt;
- a deed, instrument, or writing in which the United States, Rhode Island, or its political subdivisions is the grantor;
- a deed, instrument, or writing pursuant to the master property conveyance contract dated December 29, 1982, relating to the Providence capital center project;
- the "qualified sale of a mobile or manufactured home community to a resident-owned organization"; and
- effective July 9, 2015, the acquisition of real estate by the state or any of its political subdivisions.

Also, certain public entities, such as water districts, are not required to pay a transfer tax on account of recorded instruments.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2015.

[R.I. Gen. Laws § 44-25-2 \(2019\)](#); *see, e.g.*, [2012 R.I. Pub. Laws chs. LA114](#) and [LA115](#) (creating the Abbey Lane Community Water District)

## Rhode Island, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the state charges fees for recording instruments, including mortgages.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2012.

[R.I. Gen. Laws § 34-13-7 \(2019\)](#)

## Rhode Island, Other Relevant Provisions

No other relevant provisions were located.

## Rhode Island, Party Required to Pay Tax

### **TRANSFER TAX**

In the absence of an agreement to the contrary, the grantor, assignor, transferor, or person making the conveyance or vesting must pay the transfer tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2015.

[R.I. Gen. Laws § 44-25-1\(a\) \(2019\)](#)

## Rhode Island, Transfer Tax Amount

### **STATE TAX**

Rhode Island levies a state realty transfer tax on each deed, instrument, or writing by which any realty is transferred or conveyed, provided the consideration exceeds \$100. The tax rate is \$2.30 for each \$500 (or fractional part thereof) of the purchase price, including the value of any liens. As of July 1, 2015, the tax is also imposed on a grant, assignment, transfer, or conveyance that "has the effect of making any real estate company an acquired real estate company."

### **CITY OR COUNTY TAX**

No generally applicable provisions were located. However, certain additional local taxes are permitted. For example, if a tax is assessed by § 44-25-1 on the transfer of a real property interest in Little Compton, an additional tax of up to five percent of the total purchase price over \$150,000 is imposed. See 2009 R.I. Pub. Laws ch. 121.

Section amended 2015.

[R.I. Gen. Laws § 44-25-1\(a\) \(2019\)](#); 2009 R.I. Pub. Laws ch. 121

## South Carolina

### South Carolina, Earmarked Use for Tax

### **TRANSFER TAX**

The state portion of the transfer fee is credited as follows:

- \$0.10 of each \$1.30 to the Heritage Land Trust Fund;
- \$0.20 of each \$1.30 to the South Carolina Housing Trust Fund; and
- \$1 of each \$1.30 to the general state fund.

The county fee is credited to the county's general fund.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section enacted 1996.

[S.C. Code § 12-24-90 \(2019\)](#)

## South Carolina, Exemptions from Tax

### **TRANSFER TAX**

The following deeds are exempt from the transfer fee:

- transferring realty with a value of \$100 or less;
- transferring realty to the federal government or a state or its agencies, departments, and political subdivisions, including school districts;

- otherwise exempt under South Carolina or federal laws;
- transferring realty in which no gain or loss is recognized pursuant to § 1041 of the Internal Revenue Code;
- transferring realty in order to partition it, provided no consideration is paid other than the realty;
- transferring an individual grave space at a cemetery owned by a licensed cemetery company;
- constituting a sale contract for timber;
- transferring realty to a corporation, partnership, or trust as a stockholder, partner, or trust beneficiary, provided no consideration is paid other than the stock or interest; however, except for transfers from one family trust to another family trust without consideration or transfers from a trust established for a religious organization's benefit to the religious organization, the transfer of realty from a corporation, partnership, or trust to the entity's stockholder, partner, or trust beneficiary is subject to the fee, even if the realty is transferred to another corporation, partnership, or trust;
- transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest;
- transferring realty in a statutory merger or consolidation to a continuing or new corporation or partnership;
- constituting a corrective or a quitclaim deed used to confirm title already vested in grantee, provided no consideration is paid;



- transferring realty subject to a mortgage to the mortgagee by a deed in lieu of foreclosure or deed executed pursuant to foreclosure proceedings;
- transferring of realty from certain agents to the agents' principals in which the realty was purchased with the principal's funds;
- transferring title to certain facilities for transmitting electricity;
- assigning, transferring, or releasing real property to the decedent's estate's distributee as evidence of the distributee's title to the property; and
- transferring real property from a trust to a trust distributee upon the settlor's death, provided a distribution deed would be the appropriate instrument to transfer the subject property if the property were part of the decedent's probate estate.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 12-24-10 amended 2008; § 12-24-40 amended 2014.

[S.C. Code §§ 12-24-10, -40 \(2019\)](#)

### **South Carolina, Mortgage Recordation Tax Amount**

#### **INITIAL MORTGAGE**

No applicable provisions were located. However, the register of deeds receives a recording fee that varies based on the type of document.

## **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019, effective August 1, 2019.

[S.C. Code § 8-21-310 \(2019\)](#)

### South Carolina, Other Relevant Provisions

No other relevant provisions were located.

### South Carolina, Party Required to Pay Tax

## **TRANSFER TAX**

Generally, the transfer fee is the grantor's liability or the joint and several liability of the grantors, and the grantee is secondarily liable. However, in the following cases, the fee is the grantee's liability or the joint and several liability of the grantees rather than the grantor:

- a master-in-equity deed;
- a deed from the federal government, a state or a state's political subdivisions; or
- a qualified retirement plan exempt from income taxes under the Internal Revenue Code.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1997.

[S.C. Code § 12-24-20 \(2019\)](#)

## South Carolina, Transfer Tax Amount

### **STATE TAX**

South Carolina imposes on the recording of a deed transferring realty a fee of \$1.85 for each \$500 (or fractional part thereof) of the realty's value. This fee consists of:

- a state fee of \$1.30 for each \$500; and
- a county fee of \$0.55 for each \$500.

### **CITY OR COUNTY TAX**

The fee imposed by chapter 12-24 includes a county fee of \$0.55 for each \$500 of the realty's value.

Section 12-24-10 amended 2008; § 12-24-90 enacted 1996.

[S.C. Code §§ 12-24-10, -90 \(2019\)](#)

## South Dakota

### South Dakota, Earmarked Use for Tax

### **TRANSFER TAX**

The transfer fee proceeds must be remitted to the county general fund.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1972.

[S.D. Codified Laws § 43-4-25 \(2019\)](#)

## South Dakota, Exemptions from Tax

### **TRANSFER TAX**

The following deeds are exempt from the real estate transfer fee:

- recorded before July 1, 1968;
- by or to the United States, South Dakota, or an instrumentality, agency, or political subdivision of either;
- to provide for or release security for a debt or obligation;
- that confirm or correct a previously recorded deed;
- between husband and wife or parent and child, with only nominal consideration;
- on sale for delinquent taxes or assessments, issued in foreclosure actions, or issued in lieu of foreclosure;

- on partition;
- pursuant to any merger, consolidation, or reorganization of a corporation or limited liability company by which substantially all of the company's assets are transferred;
- by a subsidiary to its parent corporation for no more than nominal consideration, or in sole consideration of canceling or surrendering of the subsidiary's stock;
- pursuant to a distribution decree in a decedent's estate;
- between an individual grantor and a corporation, where the grantor and the owner of the majority of the corporation's stock are the same;
- between a corporation or limited liability company and its stockholders, members or creditors, provided the transfer is necessary to effectuate a dissolution of the corporation or company;
- to cemetery lots and grave sites;
- between a grantor and a partnership, if the grantor and the owner of the partnership's majority interest are the same;
- between a fiduciary and a beneficiary or a third party;
- to transfer a gift without consideration;
- pursuant to a decree of divorce, annulment or maintenance or a settlement agreement;

- for which no consideration was given; or
- between a limited liability company and its members.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1994.

[S.D. Codified Laws § 43-4-22 \(2019\)](#)

### South Dakota, Mortgage Recordation Tax Amount

#### **INITIAL MORTGAGE**

No applicable provisions were located. However, the register of deeds charges a recording fee that varies based on the document's length.

#### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2013.

[S.D. Codified Laws § 7-9-15 \(2019\)](#)

### South Dakota, Other Relevant Provisions

No other relevant provisions were located.

## South Dakota, Party Required to Pay Tax

### **TRANSFER TAX**

The grantor must pay the transfer fee.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section enacted 1968.

[S.D. Codified Laws § 43-4-21 \(2019\)](#)

## South Dakota, Transfer Tax Amount

### **STATE TAX**

The state real estate transfer fee is \$0.50 for each \$500 (or portion thereof) of the value of the real property. In this context, "value," for any deed that is not a gift, is "the amount of the full consideration" paid or to be paid, and "consideration" means "any type of property or thing of legal value," including like-kind property exchanges.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section 43-4-21 enacted 1968; § 43-4-20 amended 2007.

## Tennessee

### Tennessee, Earmarked Use for Tax

#### **TRANSFER TAX**

The funds collected pursuant to § 67-4-409 are allocated as follows:

- 5 percent retained as commission by the county register; and
- \$1.00 to the county register as a fee for issuing each tax receipt, except that any state official charged with collecting the taxes imposed may not collect the fee.

Fifty-two percent of the five-percent commission must be remitted to the state treasurer and credited to the state's general fund.

A portion of the remaining taxes levied by § 67-4-409 is allocated to the following programs:

- *Wetland Acquisition Fund*: 3.25 "cents" of the tax is credited to the "1986 Wetland Acquisition Fund," which fund may not be used to acquire a real property interest through condemnation or eminent domain. The funds must be used only to "implement and effectuate the purposes of title 11, chapter 14, part 4," and to maintain property purchased pursuant to that part. The Commissioner of Finance and Administration, with the Tennessee Wildlife Resources Agency's executive director's written approval and subject to legislative appropriation, may transfer funds from the 1986 Wetland Acquisition Fund to the Tennessee Heritage Conservation Trust Fund.
- *Local Parks Land Acquisition Fund*: 1.75 "cents" of the tax is credited to the "Local Park Land Acquisition Fund." The amount allocated must be used only for grants to county and municipal governments for the purposes set forth in § 67-4-409(i)(3), except that the Commissioner of Environment and Conservation may allocate no more than 3.5 percent of the amount for administering the fund.



- *State Lands Acquisition Fund:* 1.5 "cents" of the tax is credited to the "State Land Acquisition Fund," which is used to acquire land for any area included on the National Register of Historic Places, state historic sites, state parks, state forests, state natural areas, boundary areas along state scenic rivers, or the state trails system, and to acquire easements to protect any of the those areas. The funds may also be used to develop trails in those areas or to redevelop, renovate, and restore historic theaters owned by the government or a nonprofit corporation and listed on the National Register of Historic Places. Effective May 15, 2015, the funds may also be used for capital projects at state parks, including improvements and maintenance. The first \$300,000 deposited in the state lands acquisition fund is credited to the compensation fund created under § 11-14-406. Effective May 15, 2015, the next \$ 250,000 deposited each fiscal year is credited to the Tennessee Civil War or War Between the States site preservation fund. The Commissioner of Finance and Administration, with the Commissioner of Environment and Conservation's written approval and subject to legislative appropriation, may transfer funds from the State Lands Acquisition Fund to the Tennessee Heritage Conservation Trust Fund.
- *Agricultural Resources Conservation Fund:* 1.5 "cents" of the tax is credited to the "Agricultural Resource Conservation Fund," which must be used for "landowner assistance, to address point and nonpoint source water quality issues as well as nuisance problems," such as odor, noise, and dust. These expenditures must promote and implement agricultural management practices that conserve and protect natural resources associated with agricultural production, including soil, water, air, plants, and animals. No more than five percent of the fund may be spent for education, 10 percent for management costs associated with technical assistance to accomplish the fund's purposes or to administer the fund, and 15 percent for the combined purposes of preventing or remedying air, noise, dust, and odor pollution, or other similar "nuisance type environmental problems associated with agricultural production."

In all cases, if the required allocation is not made in the appropriations act, then the amount must be credited to the general fund.

### **MORTGAGE RECORDATION TAX**

All taxes imposed by § 67-4-409 are allocated as indicated above.

Section 11-14-401 amended 2016; § 67-4-409 amended 2019.

Tenn. Code §§ 11-14-401; 67-4-409(d), (g), (i), (j), (l) (LexisNexis 2019)

## Tennessee, Exemptions from Tax

### **TRANSFER TAX**

The following deeds are exempt from the transfer tax:

- creating a leasehold;
- creating or dissolving a tenancy by the entirety by conveyance (1) between spouses, (2) from one spouse or both spouses to the original grantor and the original grantor's spouse, or (3) from one or both spouses to a trustee who immediately conveys back to the original grantor and spouses as tenants by the entirety or tenants in common;
- abolishing an estate by the entirety by conveyance by one spouse to the other;
- "of division in kind of realty formerly held by tenants in common";
- releasing a life estate to the remainder interest's beneficiaries;
- executed to implement a testamentary devise;
- enforcing a domestic settlement decree or adjusting property rights between divorcing parties;
- transferring property to a revocable living trust created by the same transferor or his or her spouse;

- by the trustee of a revocable living trust transferring back to the same transferor or to the transferor's spouse;
- executed by the trustee of a revocable living trust to implement a testamentary devise by the trustor;
- executed by the trustee of a testamentary trust or revocable living trust to implement the distribution of the real property to a trust beneficiary or beneficiaries;
- made pursuant to mergers, consolidations, sales or transfers of substantially all corporate assets pursuant to a reorganization plan; and
- in which a municipality is the grantee.

### **MORTGAGE RECORDATION TAX**

The mortgage recordation tax is not required to record:

- a judgment lien;
- a contractors' or subcontractors' lien;
- a furnishers' lien;
- a laborers' lien;
- a mechanics' and materialmen's lien;

- a U.C.C. financing statement that secures an interest solely in investment property;
- a mortgage or deed of trust issued under the Home Equity Conversion Act;
- an instrument evidencing a debt in which a municipality is the debt holder; or
- an instrument evidencing a debt of certain health and educational facility corporations.

Section amended 2019.

Tenn. Code § 67-4-409 (a)(2), (3), (7); (b)(1); (e); (f)(1) (LexisNexis 2019)

## Tennessee, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

Tennessee imposes a state tax of \$ 0.115 per \$100 of the debt for recording an instrument evidencing the debt, including a mortgage or deed of trust. The tax does not apply to the first \$2,000 of debt. If the property is only partly in Tennessee, the tax may be apportioned and paid according to a statutory formula that establishes a ratio based on the value of the Tennessee collateral to the total value of the collateral. If the amount cannot be determined on the face of the instrument, the recording official must require a separate statement indicating the amount of the debt.

The maximum mortgage recordation tax is \$500,000 on property with a facility mainly used for manufacturing, processing or assembling a manufactured product. (See § 67-4-409(h) for detailed provisions related to transfer taxes on facilities.)

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019.

Tenn. Code § 67-4-409 (b), (h) (LexisNexis 2019)

### [Tennessee, Other Relevant Provisions](#)

No other relevant provisions were located.

### [Tennessee, Party Required to Pay Tax](#)

#### **TRANSFER TAX**

The real estate grantee or transferee must pay the transfer tax.

#### **MORTGAGE RECORDATION TAX**

The mortgagor, grantor or debtor must pay the mortgage recordation tax. Every holder of an indebtedness has the duty to collect this tax from the debtor and to remit it as required by statute.

Section amended 2019.

Tenn. Code § 67-4-409(a)(6), (b) (LexisNexis 2019)

### [Tennessee, Transfer Tax Amount](#)

#### **STATE TAX**

The Tennessee state realty transfer tax is \$.37 per \$100 of the greater of:

- the consideration amount, or
- the property value.

If the transfer is by quitclaim deed, the tax is based on actual consideration. Tennessee statutes impose only one tax on several deeds for the same transfer of one tract.

The maximum transfer tax is \$100,000 in the aggregate on facilities mainly used for manufacturing, processing or assembling a manufactured product. (See § 67-4-409(h) for detailed provisions related to transfer taxes on facilities.)

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Section amended 2019.

Tenn. Code § 67-4-409(a)(1), (h) (LexisNexis 2019)

### **Texas**

#### **Texas, Earmarked Use for Tax**

No applicable provisions were located.

#### **Texas, Exemptions from Tax**

No applicable provisions were located.

#### **Texas, Mortgage Recordation Tax Amount**

No applicable provisions were located, but Texas does require the county clerk to charge and collect recording fees based on the size and type of document. Effective September 1, 2015, a county clerk may also collect a nominal (up to \$10) real property records filing fee if the commissioners court adopts the fee.

Section amended 2019.

[Tex. Loc. Gov't Code § 118.011\(a\)\(2\), \(g\) \(2019\)](#)

### Texas, Other Relevant Provisions

No other relevant provisions were located.

### Texas, Party Required to Pay Tax

No applicable provisions were located.

### Texas, Transfer Tax Amount

No applicable provisions were located, but Texas does require the county clerk to charge and collect recording fees based on the size and type of document. Effective September 1, 2015, a county clerk may also collect a nominal real property records filing fee if the commissioners court adopts the fee.

[S.B. 942, 91st Leg., Reg. Sess. \(Tex. 2009\)](#), which would have permitted a county to impose a real estate transfer fee under specified conditions, did not pass into law.

Section amended 2019.

[Tex. Loc. Gov't Code § 118.011\(a\)\(2\) \(2019\)](#)

## Utah

### Utah, Earmarked Use for Tax

No applicable provisions were located.

### Utah, Exemptions from Tax

No applicable provisions were located.

### Utah, Mortgage Recordation Tax Amount

No applicable provisions were located, but Utah does require the county recorder to charge and collect recording fees based on the type of document.

Section amended 2019.

See [Utah Code Ann. § 17-21-18.5 \(2020\)](#)

## Utah, Other Relevant Provisions

No other relevant provisions were located.

## Utah, Party Required to Pay Tax

No applicable provisions were located.

## Utah, Transfer Tax Amount

No applicable provisions were located.

Note that [H.B. 441](#), which was introduced during the 2019 session and would have imposed a real estate transfer tax, did not pass.

## Vermont

### Vermont, Earmarked Use for Tax

#### **TRANSFER TAX**

Effective July 1, 2017, before property transfer tax revenue is distributed, two percent of the revenue is deposited in a special fund in the department of taxes for property valuation and review administration costs.

Also prior to distribution, \$2,500,000 of the revenue received from the property transfer tax must be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency, the proceeds of which the Vermont Housing and Conservation Board must use to create affordable housing. As long as the bonds, notes, and other obligations so incurred remain outstanding, the rate of tax imposed pursuant to § 9602 may not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least \$12,000,000.



The remaining funds are distributed as follows:

- 50 percent of the revenue to the "Vermont housing and conservation trust fund";
- 17 percent of the revenue to the Municipal and Regional Planning Fund, of which 10 percent is disbursed to the Vermont center for geographic information, 70 percent is disbursed to the secretary of the agency of commerce and community development for performing contracts with regional planning commissions to provide regional planning services, and 20 percent is disbursed to municipalities; and
- 33 percent of the revenue to the state fund, which is the basic operating fund of the state that is used to finance all expenditures for which no special revenues have otherwise been provided.

The 2017 General Assembly recognized that transferring the first \$2,500,000 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service reduces the amount of revenues available for allocation to the respective statutory recipients identified above. "To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of \$2,500,000.00 to the Vermont Housing and Conservation Trust Fund," as specified in 2017 Vt. Acts & Resolves ch. 85, § 1.7. See also 2017 Vt. Acts & Resolves ch. 85, § D.100 for appropriations from the above funds to the General Fund.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 312 amended 1999; § 435 amended 2019; § 4306 amended 2015; § 9610 amended 2017.

[Vt. Stat. tit. 32, §§ 435\(b\), 9610; tit. 10, § 312; tit. 24, § 4306 \(2019\)](#)

Vermont, Exemptions from Tax

## **TRANSFER TAX**

The following transfers are exempt from the transfer tax:

- recorded before January 1, 1968, the effective date of the act;
- to the United States, Vermont, or an instrumentality, agency or subdivision of either;
- to secure a debt or obligation;
- to confirm or correct a previously recorded transfer;
- between husband and wife, parent and child, or grandparent and grandchild, without consideration, or in trust or by court decree (to the extent of the benefit to the donor or one these related persons), or from a trust conveying or releasing the property from the trust as between such persons and without consideration;
- to release property that is security for a debt or other obligation when it has been satisfied;
- to effectuate a mere change of identity or form of ownership or organization where there is no change in beneficial ownership;
- of controlling interests in a legal entity with a fee interest in property if the transfer of the property would qualify for exemption if accomplished by deed of the property between the parties to the transfer of the controlling interest;
- on partition;

- pursuant to a merger or consolidation of corporations, provided no gain or loss is recognized under the Internal Revenue Code;
- to shareholders in connection with complete dissolution, unless a major purpose of the dissolution is to avoid the property transfer tax;
- by a subsidiary to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
- to a corporation at the time of its formation, provided no gain or loss is recognized under § 351 of the Internal Revenue Code, unless a major purpose of the transaction is to avoid the property transfer tax;
- to or by a local development corporation;
- to or by an authority established pursuant to chapter 12 of Title 10;
- to an organization qualifying under § 501(c)(3) of the Internal Revenue Code and meeting the "public support" test of § 509(a)(2) of the Internal Revenue Code, provided one of the organization's stated purposes is to acquire property in order to preserve farmland or open-space land and the organization will hold the property for that purpose;
- to a partnership at formation, provided no gain or loss is recognized under § 721 of the Internal Revenue Code, unless a major purpose of the transaction is to avoid the property transfer tax;
- by a partnership to a partner in connection with a complete dissolution of the partnership, provided that no gain or loss is recognized under the Internal Revenue Code and that the major purpose of the dissolution is not to avoid the property transfer tax;
- of utility line easements to a public utility or a municipality for \$500 or less;

- arising out of a foreclosure proceeding or deed in lieu of foreclosure;
- under certain court judgments disposing of real estate of the parties to a civil marriage;
- to organizations qualifying under § 501(c)(3) of the Internal Revenue Code or to its wholly-owned subsidiary, provided one of the specified purposes is to acquire property in order to preserve housing for low-income families, to operate a statewide public television station, or to act as a food clearinghouse;
- to a corporation qualifying as a limited equity cooperative under the Cooperative Housing Ownership Act, provided the property will be used to provide housing for low or moderate income persons or households;
- to certain organizations qualifying under § 501(c)(2) of the Internal Revenue Code;
- of certain leasehold or fee interests made to low income individuals by an organization qualifying under § 501(c)(3) of the Internal Revenue Code with the primary purpose of providing housing to low income individuals or its wholly-owned subsidiary;
- to a limited liability company at its formation, pursuant to which no gain or loss is recognized under the Internal Revenue Code, unless the major purpose of the transaction is to avoid the tax; or
- by a limited liability company to a member in connection with complete dissolution, provided no gain or loss is recognized under the Internal Revenue Code, unless a major purpose of the dissolution is to avoid the property transfer tax.

See the following regulations for additional provisions that apply in determining whether a transfer is exempt from the transfer tax:

- regulation 1.9603(2) for additional provisions regarding exemptions for transfers to governmental entities;
- regulation 1.9603(5) for additional provisions regarding exemptions for transfers of real property from an estate to a beneficiary of the estate and for transfers of real property in trust; and
- regulation 1.9603(8) for transfers by partition among co-owners of joint tenancies, tenancies in common, or tenancies by the entirety.

The state's property transfer tax does not apply to sales to individuals of mobile homes purchased after April 1, 2011, but before July 1, 2012, to "replace a mobile home that was damaged or destroyed as a result of flooding and storm damage that occurred as a result of a federally declared disaster in Vermont in 2011." A Vermont resident who purchased a qualifying mobile home is entitled to reimbursement for any transfer tax paid.

A property transfer tax return is not required of properties that qualify for:

- the exemption stated in § 9603(17) (regarding certain utility line easements granted to a public utility or a municipality); or
- as of July 1, 2015, the exemption stated in § 9603(2) (regarding transfers to a governmental entity), if the transfer is of a property interest for highway purposes and the consideration is \$10,000 or less.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section 9603 amended 2011; § 9606 amended 2017 regulatory section adopted 1979.

[Vt. Stat. tit. 32, § 9603, 9606\(d\) \(2019\); 10-060-025 Vt. Code R. § 1.9603 \(2019\); 2011 Vt. Acts & Resolves ch. 143, § 55 \(uncodified provision enacted 2012\)](#)

## Vermont, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the town clerk must charge a per page nominal fee "for recording a trust mortgage deed as provided in section 1155 of Title 24."

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019.

[Vt. Stat. tit. 32, § 1671 \(2019\)](#)

## Vermont, Other Relevant Provisions

### **TAX ON NURSING HOME TRANSFERS**

Vermont imposes a tax on the transferor of any nursing home located in Vermont at the rate of eight percent of the selling price. The nursing home transfer tax is the transferor's liability, and the proceeds are deposited in the general fund.

Section 9531 amended 1995; § 9533 amended 2019.

[Vt. Stat. tit. 32, §§ 9531 \(2018\), 9533 \(2019\)](#)

## Vermont, Party Required to Pay Tax

## **TRANSFER TAX**

The transfer tax is the transferee's liability, unless the parties agree otherwise.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 1969.

[Vt. Stat. tit. 32, § 9604 \(2019\)](#)

## Vermont, Transfer Tax Amount

### **STATE TAX**

Vermont imposes a state tax on the transfer by deed of title to property located in Vermont or a transfer or acquisition of a controlling interest in any legal entity with title to property in Vermont. The tax rate is the greater of 1.25 percent of the property's value or \$1.00, except as follows:

- for property to be used for the transferee's principal residence, the tax rate is 0.5 percent of the first \$100,000 in value and 1.25 percent of the value in excess of \$100,000, except no tax is imposed on the first \$110,000 if the purchaser obtains a purchase money mortgage "funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase"; and
- for property in certain housing cooperatives under chapter 7 or affordable housing cooperatives under chapter 14 of Title 11, the tax rate is 0.5 percent of the first \$100,000 in value and 1.25 percent of the value in excess of \$100,000.

The provision that applied a lower rate to transfers of property in a program under chapter 124 of Title 32 or a working farm was repealed effective July 1, 2011.

### **CITY OR COUNTY TAX**

No applicable provisions were located. However, the town clerk receives a nominal recording or filing fee for receiving a property transfer return.

Section 1671 amended 2019; § 9602 amended 2019.

[Vt. Stat. tit. 32, §§ 1671\(a\)\(6\), 9602 \(2019\)](#)

## Virgin Islands

### Virgin Islands, Earmarked Use for Tax

### **TRANSFER TAX**

Stamp tax proceeds are generally allocated as follows:

- 70 percent to the General Fund; and
- 30 percent to the Virgin Islands Housing Finance Authority.

### **MORTGAGE RECORDATION TAX**

All fees collected for recording mortgages are deposited into the Office of the Recorder of Deeds Fund.

Section 133 amended 2006; § 130 amended 2007.



V.I. Code tit. 33, § 130; tit. 28, § 133 (LexisNexis 2019)

## Virgin Islands, Exemptions from Tax

### **TRANSFER TAX**

The transfer tax does not apply to a transfer:

- from or to the United States or the Virgin Islands, or any instrumentality thereof;
- solely to provide or release security;
- that confirms or corrects a previously recorded deed;
- involving a property sale for delinquent taxes;
- involving the partition of real property;
- involving deeds given pursuant to a corporate merger, dissolution or consolidation;
- by or to a subsidiary and a parent corporation for no consideration other than the cancellation, surrender or exchange of the parent's or the subsidiary's stock;
- to a nonprofit organization, provided the organization has submitted a certificate of good standing;
- between "husband and wife, parents and children, step-parents and step-children, legal guardians and wards, brothers and sisters, grandparents and grandchildren, great

grandparents and great grandchildren, uncles and nieces and nephews, aunts and nieces and nephews, and between cousins up to and including the second degree"; and

- by deed of conveyance to or by the trustee of a trust, if a certain relationship exists between the parties.

Those claiming an exemption from stamp taxes must submit an affidavit setting forth the facts or legal basis supporting the exemption.

### **MORTGAGE RECORDATION TAX**

The following are exempt from recording fees:

- evidence of debt for loans by the Farm Security Administration and/or the United States Government acting through its agencies;
- written instruments connected with the Rural Electrification Project in St. Croix; and
- written instruments conveying interests from or to the United States or the Virgin Islands, or any instrumentality thereof.

Section 128 amended 2013; § 134 amended 1968.

V.I. Code tit. 33, § 128; tit. 28, § 134 (LexisNexis 2019)

## [Virgin Islands, Mortgage Recordation Tax Amount](#)

### **INITIAL MORTGAGE**

The following fees, based on value, must be paid to record deeds, mortgages, and contracts:

- \$400 or less, \$11;
- more than \$400, but no more than \$600, \$12;
- more than \$600, but no more than \$1,000, \$13;
- more than \$1,000, but no more than \$2,000, \$14;
- more than \$2,000, but no more than \$3,000, \$15; and
- for each additional \$1,000, \$1.00.

In addition to the recording fee, for each sheet of 400 words or less, a fee in the amount of \$1.00 for English language and \$1.25 for any other language must be paid. The recording fee for attached documents is an additional \$2.50.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2006.

V.I. Code tit. 28, § 133 (LexisNexis 2019)

### **Virgin Islands, Other Relevant Provisions**

No other relevant provisions were located.

## Virgin Islands, Party Required to Pay Tax

No applicable provisions were located.

## Virgin Islands, Transfer Tax Amount

### **TERRITORY TAX**

The following stamp tax is imposed on the transfer of title to real property by a conveyance instrument:

- 2 percent for property valued up to \$350,000;
- 2.5 percent for property valued from \$350,001 to \$1,000,000;
- 3 percent for property valued from \$1,000,001 to \$5,000,000; and
- 3.5 percent for property valued over \$5,000,001.

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Statute amended 2003.

V.I. Code tit. 33, § 121 (LexisNexis 2019)

## Virginia

### Virginia, Earmarked Use for Tax

### **TRANSFER TAX**

### ***Taxes imposed under §§ 58.1-801 through -809***

Pursuant to § 58.1-816, \$40 million of the taxes imposed under §§ 58.1-801 through -809 are distributed among Virginia counties and cities. Subject to any transfers required under § 58.1-816.1, the state taxes distributable among the counties and cities are apportioned by multiplying the amount by a fraction in which the numerator is the amount actually paid into the state treasury that is attributable to deeds and other instruments recorded in the county or city and the denominator is the total amount of taxes imposed under §§ 58.1-801 through 58.1-809 that were actually paid into the state treasury. These funds must be used for transportation or public education. However, any of these transfers attributable to a local jurisdiction that adopts an ordinance to dedicate its share for transportation purposes must allocate its funds to the Transportation Improvement Program Set-aside Fund.

"Of the state recordation taxes imposed pursuant to §§ 58.1-801 and 58.1-803, the revenues collected each fiscal year from \$0.03 of the total tax imposed under each section" are deposited to the Commonwealth Mass Transit Capital Fund and/or the Highway Maintenance and Operating Fund.

### ***State recordation taxes under Chapter 58.1***

The first \$40 million of annual collections of the state recordation taxes imposed by chapter 58.1 are allocated to the U.S. Route 58 Corridor Development Fund.

### ***Additional tax imposed by § 58.1-802***

The additional transfer tax imposed by § 58.1-802 is allocated as follows:

- 50 percent to the state treasury; and
- 50 percent to the local treasury.

However, every clerk of court collecting taxes under § 58.1-802 for his county or city is entitled to compensation equal to 5% of the amount collected.

### ***Local taxes***

The Northern Virginia Transportation District Fund consists of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William. However, this dedication does not affect the local recordation taxes under §§ 58.1-802(B) and 58.1-814. Allocations from the Northern Virginia Transportation District Fund may be used:

- to pay the costs of the Northern Virginia Transportation District Program; and
- for Category 4 projects, as provided in § 2 of the act authorizing bonds for the Northern Virginia Transportation District Program.

Beginning in fiscal year 2019, \$20 million each year must be transferred from the Fund to the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to [§ 33.2-3401](#).

### **MORTGAGE RECORDATION TAX**

The mortgage recordation tax is allocated in conjunction with the realty transfer tax, as described above.

Section 58.1-802 amended 2016; § 58.1-813 amended 1984; § 58.1-816 amended 1993; § 58.1-816.1 enacted 1993; § 58.1-815.4 amended 2018; § 33.2-2300 amended 2015; § 33.2-2400 amended 2018.

[Va. Code §§ 33.2-2300, -2400; 58.1-802, -813, -815.4, -816, -816.1 \(2019\)](#)

## Virginia, Exemptions from Tax

### **TRANSFER TAX**

#### ***General exemptions***

The following are generally exempt from tax:

- a "deed of trust, deed of subordination, mortgage, contract, agreement, modification, addendum," or supplemental writing, for which the tax has already been paid, provided the instrument's sole purpose is to wrap around a prior instrument, to convey property in addition to or in substitution of the property conveyed in the prior instrument, to secure the payment of the amount contracted for in the prior instrument, to alter the prior instrument's priority, or to modify the prior instrument in a manner other than to increase the amount secured;
- an assumption of a deed of trust;
- a confirmation;
- a correction;
- a deed to which a husband and wife are the only parties;
- a deed arising out of a contract to purchase real estate, unless the tax already paid is less than the tax based upon the full consideration or actual property value, in which case an additional tax must be paid based on the difference between the full amount of the consideration or actual value and the amount on which the tax has been paid; or
- a notice of assignment of a note secured by a deed of trust or mortgage.

Also, the taxes imposed by chapter 58.1 do not apply to a gift or lease of real property to The Nature Conservancy, provided the deed or lease is used exclusively to preserve wilderness, natural or open space areas.

The recordation tax levied pursuant to chapter 58.1 is not assessed on the release of a contractual right, provided:

- the release is "contained within a single deed that performs more than one function"; and
- at least one of the other functions included in the deed is subject to the recordation tax.

A recordation tax is not levied on "a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law." Also, a recordation tax is not required to record a transfer on death deed or a revocation of a transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act, provided no consideration has passed between the parties, or to record any deed of distribution when no consideration has passed between the parties.

***State transfer tax imposed by §§ 58.1-801 and 58.1-807***

The taxes imposed by §§ 58.1-801 and 58.1-807 (addressing leases and other contracts) do not apply to any deed conveying real estate:

- to a college or other learning institution not conducted for profit, provided the real estate is intended to be used for educational purposes and not as a source of profit;
- to the trustee of any church, religious body, or corporation mentioned in § 57-16.1, provided the real estate is used for religious purposes or the minister's residence;



- to the United States, Virginia, or any Virginia county, city, town, district or other political subdivision;
- to the Virginia Division of the United Daughters of the Confederacy;
- to a corporation organized exclusively for owning or operating a hospital not for profit;
- to a corporation upon its organization by persons in control of the corporation in a transaction that qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code;
- from a corporation to its stockholders upon complete or partial liquidation, provided the transaction qualifies pursuant to §§ 331, 332, 333 or 337 of the Internal Revenue Code;
- to the surviving or new entity upon a merger or consolidation to which two or more of the entities are parties, or in a reorganization as set forth in § 368(a)(1)(C) and (F) of the Internal Revenue Code;
- to a subsidiary corporation from its parent corporation or from a subsidiary corporation to a parent corporation, provided the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code;
- to a partnership or limited liability company, if the grantors are entitled to at least 50 percent of the profits and surplus, provided the transfer is not the precursor to another transfer in order to avoid recordation taxes;
- from a partnership or limited liability company, if the grantees are entitled to receive at least 50 percent of the profits and surplus, provided the transfer is not the precursor to another transfer in order to avoid recordation taxes;

- to trustees of a revocable inter vivos trust, provided the grantors and the beneficiaries are the same persons and no consideration has passed between the grantor and the beneficiaries;
- to the original beneficiaries of a trust from the trustees holding title under a deed in trust;
- if the grantor is an organization exempt under § 501(c)(3) of the Internal Revenue Code that primarily acquires land to erect or rehabilitate low-cost homes that are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;
- pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common or coparceners; or
- pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

***Additional tax imposed by § 58.1-802***

No tax may be imposed pursuant to § 58.1-802 if the grantor is a locality at a judicial sale of tax-delinquent property conducted pursuant to § 58.1-3965 et seq. The tax imposed by § 58.1-802 also does not apply to the following transfers or instruments:

- to a corporation upon its organization by persons in control of the corporation in a transaction that qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code;
- from a corporation to its stockholders upon complete or partial liquidation, provided the transaction qualifies pursuant to §§ 331, 332, 333 or 337 of the Internal Revenue Code;

- to the surviving or new entity upon merger or consolidation of two or more entities or in a reorganization set forth in § 368(a)(1)(C) and (F) of the Internal Revenue Code;
- to a subsidiary corporation from its parent corporation or from a subsidiary corporation to a parent corporation, provided the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code;
- to a partnership or limited liability company, if the grantors are entitled to at least 50 percent of the profits and surplus, provided the transfer is not the precursor to another transfer in order to avoid recordation taxes;
- from a partnership or limited liability company, if the grantees are entitled to receive at least 50 percent of the profits and surplus, provided the transfer is not the precursor to another transfer in order to avoid recordation taxes;
- to trustees of a revocable inter vivos trust, provided the grantors and the beneficiaries are the same persons and no consideration has passed between the grantor and the beneficiaries;
- to the original beneficiaries of a trust from the trustees holding title under a deed in trust;
- given to secure a debt;
- conveying real estate from a college or learning institution not conducted for profit;
- conveying real estate from the United States, Virginia, or any Virginia county, city, town, district or other political subdivision;
- conveying real estate to Virginia or any Virginia political subdivision, if the subdivision is required by law to reimburse the parties taxable pursuant to § 58.1-802; or

- conveying real estate from any church, religious body, or a corporation mentioned in § 57-16.1.

No recordation tax is required to record any gift if no consideration has passed between the parties, provided the deed states that it is a deed of a gift.

### **MORTGAGE RECORDATION TAX**

The mortgage recordation taxes imposed by §§ 58.1-803 and 58.1-804 do not apply to any deed of trust or mortgage:

- by a college or other learning institution not conducted for profit;
- by a church, religious body, its trustee, or a corporation mentioned in § 57-16.1;
- by a nonstock corporation organized exclusively to own or operate a hospital not for profit;
- by any local governmental entity or political subdivision of Virginia to secure a debt payable to any other local governmental entity or political subdivision;
- by an organization an organization exempt under § 501(c)(3) of the Internal Revenue Code that primarily acquires land to erect or rehabilitate low-cost homes that are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;
- securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development,

for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

- given by any entity organized pursuant to Chapter 9.1 of Title 56.

Section 58.1-810 amended 1984; §§ 58.1-802 amended 2016; § 58.1-811 amended 2019; § 58.1-809 amended 2015.

[Va. Code §§ 58.1-802, -809, -810, -811 \(2019\)](#)

## Virginia, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

Virginia imposes a recordation tax on deeds of trust or mortgages at a rate of \$0.25 cents for every \$100 (or part thereof) of the amount of bonds or other obligations secured. However, generally, the “maximum tax on the recordation of any deed of trust or mortgage or on any indenture supplemental thereto” is as follows:

- on the first \$10 million of value, \$0.25 for every \$100 (or part thereof);
- on the next \$10 million of value, \$0.22 for every \$100 (or part thereof);
- on the next \$10 million of value, \$0.19 for every \$100 (or part thereof);
- on the next \$10 million of value, \$0.16 for every \$100 (or part thereof); and
- on all amounts over \$40 million, \$0.13 for every \$100 (or part thereof).

If the amount secured under a deed of trust or mortgage is not ascertainable, or if the obligations are not fully secured because they exceed the property's fair market value, the tax is based on the property's fair market value as of the date of the deed of trust or mortgage.

### **REFINANCED MORTGAGE**

On deeds of trust, mortgages, or other instruments that are supplemental to, wrap around, or modify the terms of an existing deed of trust or mortgage, on which the recordation tax has already been paid, the tax must be paid only on that portion of the secured face amount that is in addition to the amount of the original debt or obligation secured by the deed of trust or mortgage on which tax has been paid.

On deeds of trust or mortgages that secure the refinancing of an existing debt that is secured by a deed of trust or mortgage on which the tax has already been paid, the tax is assessed as follows, "starting at the point on the scale that applies to the first dollar in excess of the amount of the original debt or obligation secured by the prior instrument.":

- on the first \$10 million of value, \$0.18 for every \$100 (or part thereof);
- on the next \$10 million of value, \$0.16 for every \$100 (or part thereof);
- on the next \$10 million of value, \$0.14 for every \$100 (or part thereof);
- on the next \$10 million of value, \$0.12 for every \$100 (or part thereof); and
- on all over \$40 million of value, \$0.10 for every \$100 (or part thereof).

Effective July 1, 2015, if the supplemental instrument increases the principal amount secured by the prior instrument, the tax imposed is paid only on the amount of the increase.

Section 58.1-803 amended 2015.

[Va. Code § 58.1-803 \(2019\)](#)

## Virginia, Other Relevant Provisions

### **CONSTRUCTION LOAN DEEDS OF TRUST OR MORTGAGES**

The tax imposed by § 58.1-803 applies to construction loan deeds of trust or mortgages, but is not imposed upon a permanent loan deed of trust or mortgage that is recorded within three years of the date the construction deed of trust or mortgage was recorded, provided the tax on the construction loan deed of trust or mortgage was paid. However, if the permanent loan deed of trust or mortgage secures a principal amount that is more than the construction loan deed of trust or mortgage, the tax is imposed on the additional amount.

### **REGIONAL CONGESTION RELIEF FEE**

Va. Code Ann. § 58-802.1, which permitted the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority to impose a "regional congestion relief fee" on certain deeds, was repealed in 2009.

### **OTHER TAXES**

The recording tax on a deed of release is \$0.50. The \$.50 recording tax on a deed of partition or deed transferring property pursuant to a decree of divorce or separate maintenance was repealed in 2016.

Sections 58.1-804, 58.1-805 amended 1984; § 58.1-806 repealed 2016; § 58.1-802.1 repealed 2009.

[Va. Code §§ 58.1-804, -805 \(2019\)](#)

## Virginia, Party Required to Pay Tax

## **TRANSFER TAX**

The grantor must pay the tax imposed by § 58.1-802.

## **MORTGAGE RECORDATION TAX**

Virginia law does not specify which party must pay the mortgage recordation tax. For transactions occurring on or after July 1, 2015, except as otherwise specifically provided, nothing in chapter 58.1 limits the right of the parties to allocate responsibility for paying the recordation taxes and fees among themselves "in any manner they determine."

Section 58.1-802 amended 2016; § 58.1-812 amended 2015.

[Va. Code §§ 58.1-802, -812 \(2019\)](#)

## **Virginia, Transfer Tax Amount**

### **STATE TAX**

Virginia levies a state recordation tax on every deed admitted to record, unless the deed is exempt. The tax rate is \$0.25 on every \$100 (or fraction thereof) of the greater of the consideration paid or the conveyed property's value. If a corporate charter is amended to change the corporate name, the tax for recording a deed evidencing the name change is \$0.50.

Section 58.1-802 of Virginia statutes imposes an additional tax on each deed, instrument, or writing by which realty is conveyed to the purchaser. The tax rate, on consideration or value (whichever is greater) exceeding \$100, is \$0.50 cents for each \$500 (or fraction thereof), excluding any liens or encumbrances on the property at the time of sale.

### **CITY OR COUNTY TAX**



Any city council and county governing body generally may impose a city or county recordation tax equal to one-third of the state recordation tax amount. However, note that certain city councils may tax deeds in an amount "not exceeding like taxes levied by the Commonwealth."

Section 58.1-801 amended 2004; § 58.1-814 amended 1984; § 58.1-802 amended 2016.

[Va. Code §§ 58.1-801, -802, -814 \(2019\)](#); *see, e.g.,* [2015 Va. Acts ch. 345](#) (providing that the City of Bristol may impose a recordation tax that does not exceed similar taxes levied by the Commonwealth)

## Washington

### Washington, Earmarked Use for Tax

#### **TRANSFER TAX**

Until December 31, 2019, Washington's excise tax on each real property sale must be allocated as follows:

- 2 percent of the proceeds is deposited in the public works assistance account;
- 4.1 percent is deposited in the education legacy trust account;
- 1.6 percent is deposited in the city-county assistance account; and
- the remainder is deposited in the general fund.

Beginning January 1, 2020, and ending June 30, 2023, the amounts received for the tax imposed on each sale of real property must be deposited as follows:

- 1.7 percent into the public works assistance account;

- 1.4 percent into the city-county assistance account;
- 79.4 percent into the general fund; and
- the remainder into the educational legacy trust account.

Beginning July 1, 2023, and thereafter, the amounts received must be deposited as follows:

- 5.2 percent into the public works assistance account;
- 1.4 percent into the city-county assistance account;
- 79.4 percent into the general fund; and
- the remainder into the education legacy trust account.

For taxes collected by the county, the proceeds must be allocated as follows:

- the \$5 fee on each transaction that does not require the payment of a tax, to the county treasurer;
- 1.3 percent of the taxes collected by the county and the treasurer's fee, to the county current expense fund to defray collection costs; and
- the remainder of the proceeds to the state treasurer, to be deposited in the general fund.

The county treasurer collected an additional \$5 fee through June 30, 2010, regardless of whether the transaction required the payment of tax. As of June 30, 2013, these funds must be placed in the general fund and allocated to the counties to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Any funds held in the account that are not spent by the earlier of July 1, 2015, or the time the county treasurer is using an electronic processing and reporting system for real estate excise tax affidavits, revert to the special real estate and property tax administration assistance account.

Beginning January 1, 2014, the county treasurer must continue to collect the additional \$5 fee, regardless of whether the transaction requires the payment of tax. The county treasurer must deposit one-half of the fee during this time period in the special real estate and property tax administration assistance account and the balance to the state treasurer, who must place the money in the real estate and property tax administration assistance account.

Local governments' authority to use real estate excise tax revenues for operation and maintenance of capital projects was significantly revised by the legislature in 2019.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 82.46.075 enacted 2002; § 82.45.060 amended 2019; § 82.45.180 amended 2013; § 82.46.010 amended 2015; § 82.46.015 amended 2016; §§ 82.46.035 and 82.46.037 amended 2019; § 82.45.230 enacted 2019.

[Wash. Rev. Code §§ 82.45.060, .180, .230; 46.010, .015, .035, .037, .075 \(2019\)](#)

## Washington, Exemptions from Tax

### **TRANSFER TAX**

The term "sale" does not include the following transactions, so that the transfer tax does not apply:

- a gift;
- a devise;
- an inheritance (see below for specific required documents);
- a transfer by transfer on death deed, to the extent that it is in satisfaction of a contractual obligation the decedent owed to the property's recipient;
- certain leasehold interests;
- a cancellation or forfeiture of a vendee's interest in a contract for sale;
- a partition by tenants in common by agreement or as the result of a court decree;
- an assignment from one spouse or one domestic partner to the other according to a decree of marriage dissolution or state registered domestic partnership or a property settlement agreement;
- an assignment or other transfer of a vendor's interest in a sale contract;
- a transfer pursuant to a condemnation proceedings brought by the United States, Washington, a political subdivision of either, or a municipal corporation;
- a mortgage or other transfer to secure a debt or its assignment;

- a transfer or conveyance pursuant to a deed of trust or an order of sale in any foreclosure proceeding or upon execution of a judgment or deed in lieu of foreclosure to satisfy a mortgage or deed of trust;
- a conveyance to the federal housing administration or veterans administration pursuant to a contract of insurance or guaranty;
- a transfer pursuant to any lease or contract upon which the tax has been paid or where the lease or contract was entered into before the tax was imposed;
- the sale of a cemetery lot or grave;
- a sale by the United States, Washington, any subdivision of either, or a Washington municipal corporation;
- a sale to a regional transit authority or public corporation pursuant to a sale/leaseback agreement;
- certain transfers of real property that merely changes the identity or form of ownership of an entity, with no change in beneficial ownership, provided specified conditions are met;
- certain transfers that do not involve "the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization" under the Internal Revenue Code;
- a qualified sale of a "manufactured/mobile home community" ;
- a sale related to "state route number 16 corridor transportation systems and facilities";

- a sale of standing timber, if the gross income from the sale is taxable under § 82.04.260(12)(d);
- a transfer of a qualified low-income housing development or controlling interest in such a development, unless, due to noncompliance with federal statutory requirements, the seller is subject to recapture, in whole or in part, of its allocated federal low-income housing tax credits within the four years prior to the date of transfer;
- a qualified transfer of residential property by a legal representative of a person with developmental disabilities to a qualified entity, subject to statutory conditions; and
- effective October 1, 2019, a sale by an affordable homeownership facilitator of self-help housing to a low-income household.

In order to receive the exemption on real property transferred as a result of inheritance, the following documents are required:

- if the property is being transferred pursuant to a community property agreement, a copy of the recorded agreement and a certified copy of the death certificate;
- if the property is being transferred pursuant to a trust instrument, a certified copy of the death certificate and a copy of the portion of the trust instrument showing the grantor's authority;
- if the property is being transferred pursuant to a probated will, a certified copy of the letters testamentary;
- if an intestate administration, a certified copy of the letters of administration, showing that the grantor is the court-appointed executor, executrix, or administrator, and the death certificate;

- in the case of joint tenants with right of survivorship and remainder interests, a certified copy of the death certificate;
- if the property is being transferred pursuant to a court order, a certified copy of the court order requiring the transfer;
- if a decedent's community property interest is being transferred to a surviving spouse or domestic partner without the documents required above, a certified copy of the death certificate and a signed lack of probate affidavit from the surviving spouse or domestic partner affirming that he or she is "the sole and rightful heir to the property";
- if the real property is transferred to one or more heirs by operation of law, or transferred under a will that has not been probated, but absent the documentation set forth above, a certified copy of the death certificate and a signed lack of probate affidavit affirming that the affiant(s) are the sole and rightful heirs to the property;
- when real property is transferred as described immediately above and the decedent-transferor had also inherited the property from his or her spouse or domestic partner but never transferred title to the property into the decedent-transferor's name, the transferee(s) must provide: (a) a certified copy of the death certificates for the decedent-transferor and the spouse or domestic partner from whom the decedent-transferor inherited the real property; and (b) a lack of probate affidavit affirming that the affiant(s) are the rightful heirs to the property; or
- if the property is being transferred pursuant to a transfer on death deed, a certified copy of the death certificate must be recorded to perfect title.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 82.45.190 enacted 1998; § 82.45.010 amended 2019, § 82.45.195 amended 2014; § 82.45.197 amended 2016.

[Wash. Rev. Code §§ 82.45.010\(3\)](#) (as amended by [2019 Wash. Laws chs. 424; 385; 390, §10](#)), [.190, .195, .197 \(2019\)](#)

## Washington, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the county recorder collects a recording fee, based on the document's length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2019.

[Wash. Rev. Code § 36.18.010 \(2019\)](#)

## Washington, Other Relevant Provisions

No other relevant provisions were located.

## Washington, Party Required to Pay Tax

### **TRANSFER TAX**

The seller must pay the transfer tax.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.



Section amended 2010.

[Wash. Rev. Code § 82.45.080 \(2019\)](#)

## Washington, Transfer Tax Amount

### **STATE TAX**

Through December 31, 2019, Washington imposes an excise tax equal to 1.28 percent of the selling price.

Beginning January 1, 2020, the rate of tax is:

- 1.1 percent of the portion of the selling price that is less than or equal to \$500,000;
- 1.28 percent of the portion of the selling price that is greater than \$500,00 and equal to or less than \$1.5 million;
- 2.75 percent of the portion of the selling price that is greater than \$1.5 million and equal to or less than \$3 million;
- 3.0 percent of the portion of the selling price that is greater than \$3 million.

The sale of real property that is classified as timberland or agricultural land is subject to a tax of 1.28 percent of the selling price.

Note: Beginning July 1, 2022, the the selling price threshold for determining the tax rate will be adjusted to reflect the lesser of the growth of the consumer price index for shelter or 5 percent.

The county treasurer must collect an additional \$5 fee, to be deposited one-half in the special real estate and property tax administration assistance account and one-half in the real estate and property tax administration assistance account.

Washington has also authorized affordable-housing and homeless housing and assistance fund surcharges.

### **CITY OR COUNTY TAX**

Any ordinance imposing a tax under chapter 82.46 applies to all sales taxable under chapter 82.45, at the rate specified in the ordinance.

The legislative authority of any county or city may impose an excise tax on each sale of real property in the unincorporated areas of the county and in the corporate limits of the city at a rate not exceeding 0.25 percent of the selling price. The legislative authority of any county generally may impose an additional excise tax on the purchase and sale of real property at the rate of 0.5 percent of the selling price.

The legislative authority of any county may impose an additional excise tax on each sale of real property in the county at a rate not to exceed one percent of the selling price, the proceeds of the tax to be used exclusively for the acquisition and maintenance of conservation areas. Such an additional tax must be approved by a majority of the county's voters.

Finally, the legislative authority of any county may impose an additional excise tax on the purchase and sale of real property in the county at the rate of .5 percent of the selling price, the proceeds of the tax to be used exclusively for "the development of affordable housing including acquisition, building, rehabilitation, and maintenance and operation of housing for very low, low, and moderate-income persons and those with special needs." Such an additional tax must be approved by a majority of the county's voters.

Section 82.46.075 enacted 2002; § 82.46.900 enacted 1993; § 36.22.178 amended 2019; § 82.45.060 amended 2019; § 82.45.180 amended 2013; § 36.22.179 amended 2019; § 82.46.010 amended 2015; § 82.46.070 enacted 1990; § 82.46.075 enacted 2002.

[Wash. Rev. Code §§ 36.22.178, .179; 82.45.060, .180; 82.46.010, .035, .070, .075, .900 \(2019\)](#)

## West Virginia

### West Virginia, Earmarked Use for Tax

#### **TRANSFER TAX**

The additional tax is a state tax.

Note: Beginning July 1, 2021, 10 percent of each such state excise tax collected shall be retained by the county wherein the tax was collected to be used for county purposes: Beginning July 1, in every year thereafter, an additional 10 percent shall be retained by the county for county purposes: Consequently, beginning July 1, 2030, the transfer tax collected shall be a county excise tax in its entirety, not a state tax.

The clerk of the county commission must deposit the funds from the additional \$20 recording fee into the Affordable Housing Fund.

#### **MORTGAGE RECORDATION TAX**

No specifically applicable provisions were located. However, the clerk of county commission may charge a fee of \$25 for recording a conveyance deed, trust deed, fixture filing or security agreement concerning a real estate lease.

Effective July 4, 2017,

- \$10 of the fee is deposited in the county general fund;
- \$5 shall be deposited in the county reappraisal fund and dedicated to the operation of the assessor's office mapping division;

- \$3 shall be deposited in the Courthouse Facilities Improvement Fund;
- \$2 is dedicated to operating the county clerk's office;
- \$1 goes to the county 9-1-1 center; and
- \$4 of each recording fee is paid into the State Treasurer to be deposited in equal amounts into the Farmland Protection Fund and the Outdoor Heritage Conservation Fund, provided the funds may be used only for costs associated with land conservation.

Statutory section 11-22-2 amended 2020; § 59-1-10 amended 2017; regulation filed 2018.

[W. Va. Code §§ 11-22-2](#) (as amended by [2020 W. Va. Law ch. 331 \(H.B. 2967\)](#)); [59-1-10 \(2019\)](#); [W. Va. Code R. § 110-22-2 \(2020\)](#)

## West Virginia, Exemptions from Tax

### **TRANSFER TAX**

The definition of the term “document” specifically excludes the following, which are therefore not subject to the property transfer tax:

- wills;
- transfer of real property with a value of \$100 or less;
- testamentary or inter vivos trusts;
- partition deeds;

- deeds pursuant to mergers of corporations or other entities;
- deeds pursuant to conversions to limited liability companies from other entities;
- deeds by a subsidiary to its parent corporation for no consideration other than canceling or surrendering of the subsidiary's stock;
- leases;
- transfers between husband and wife;
- transfers between parent and child or the child's spouse, without consideration;
- transfers between grandparent and grandchild or the grandchild's spouse, without consideration;
- transfers without consideration between a principal and straw party;
- gifts to or transfers from or between charitable or educational associations or their trustees and other nonprofit corporations with similar purposes;
- quitclaim or corrective deeds without consideration;
- transfers to or from the United States, West Virginia, or an instrumentality, agency or subdivision of either, by gift, dedication, deed or condemnation proceedings; or

- mortgages or trust deeds given to secure a debt.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section amended 1999; regulation filed 2018.

[W. Va. Code § 11-22-1\(4\) \(2019\)](#); [W. Va. Code St. R. § 110-22-2 \(2020\)](#)

[West Virginia, Mortgage Recordation Tax Amount](#)

## **INITIAL MORTGAGE**

No applicable provisions located. However, § 59-1-10 imposes a standard mortgage recording fee.

## **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2017.

[W. Va. Code § 59-1-10 \(2019\)](#)

[West Virginia, Other Relevant Provisions](#)

No other relevant provisions were located.

[West Virginia, Party Required to Pay Tax](#)

## **TRANSFER TAX**

The grantor must pay both the state tax and the county tax, unless the grantee accepts a document without the taxes having been paid, in which event the grantee must pay both taxes. Also, for any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, the grantee must pay the taxes.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Statutory section amended 2020; regulation filed 2018.

[W. Va. Code § 11-22-2](#) (as amended by [2020 W. Va. Law ch. 331 \(H.B. 2967\)](#)); [W. Va. Code R. § 110-22-2 \(2020\)](#)

### **West Virginia, Transfer Tax Amount**

#### **STATE TAX**

West Virginia imposes a state excise tax on the privilege of transferring title to real estate. The tax rate is \$1.10 per \$500 of value (or fraction thereof).

Note: Beginning July 1, 2021, 10 percent of each such state excise tax collected shall be retained by the county wherein the tax was collected to be used for county purposes: Beginning July 1, in every year thereafter, an additional 10 percent shall be retained by the county for county purposes: Consequently, beginning July 1, 2030, the transfer tax collected shall be a county excise tax in its entirety, not a state transfer tax.

In addition to the above tax, the clerk of the county commission must collect a fee of \$20 on real estate transfers for consideration.

#### **CITY OR COUNTY TAX**

West Virginia law also provides for an additional county excise tax for the privilege of transferring title to real estate. The tax rate is \$0.55 per \$500 (or fraction thereof). A county may increase its excise tax to an amount equal to the state excise tax, but the county excise tax must be either \$0.55 or \$1.10 for each \$500 of value.

After July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document as defined § 11-22-1.

Statutory section amended 2020; regulation filed 2018.

[W. Va. Code § 11-22-2](#) (as amended by [2020 W. Va. Law ch. 331 \(H.B. 2967\)](#)); [W. Va. Code R. § 110-22-3 \(2020\)](#)

## Wisconsin

### Wisconsin, Earmarked Use for Tax

#### **TRANSFER TAX**

The transfer fee is allocated as follows:

- 20 percent is retained by the county; and
- the balance is transmitted to the state.

In any county in which the register of deeds is compensated on a fee basis, the county must pay the register of deeds 25 percent of the recording fees.

#### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.



Section 77.24 amended 1981; § 77.29 enacted 1991.

[Wis. Stat. Ann. §§ 77.24, .29 \(2020\)](#)

## Wisconsin, Exemptions from Tax

### **TRANSFER TAX**

The transfer fees do not apply to conveyances:

- before October 1, 1969;
- from the United States or Wisconsin or any instrumentality, agency or subdivision of either;
- by gift, to the United States or Wisconsin or any instrumentality, agency or subdivision of either;
- for road, street or highway purposes, to the United States or Wisconsin or any instrumentality, agency or subdivision of either;
- executed for nominal, inadequate or no consideration to confirm, correct or reform a previously recorded conveyance;
- on sale for delinquent assessments or taxes;
- on partition;
- pursuant to entity mergers;

- pursuant to partnerships filing or cancelling a statement of qualification under Wis. Stat. § 178.0901 or a corresponding statement under the law of another jurisdiction;
- pursuant to certain conversions of a business entity to another form of business entity;
- pursuant to an interest exchange under Wis. Stat. § 178.1131;
- pursuant to a domestication under Wis. Stat. § 178.1151;
- by a subsidiary to its parent corporation for no or nominal consideration or in sole consideration of canceling, surrendering or transferring capital stock;
- between "parent and child, stepparent and stepchild, parent and son-in-law or parent and daughter-in-law for nominal or no consideration";
- between husband and wife or domestic partners;
- between agent and principal or from a trustee to a beneficiary without consideration;
- solely to provide or release security for a debt or obligation, if the debt or obligation was not incurred as the result of a conveyance;
- to designate a "transfer on death" beneficiary or by nonprobate transfer under § 705.15;
- by "will, descent or survivorship";

- pursuant to condemnation;
- of real estate with a value of \$1,000 or less;
- under a foreclosure or deed in lieu of foreclosure to the mortgage holder or seller under a land contract;
- between a corporation and its shareholders, provided all stock is owned by related persons, if the transfer is for no consideration except the assumption of debt or corporate stock and if the corporation owned the property for at least 3 years;
- between a partnership and one or more of its partners, provided all of the partners are related and the transfer is for no consideration other than the assumption of debt or a partnership interest;
- between a limited liability company and one or more of its members, provided all members are related and the transfer is for no consideration other than the assumption of debt or an interest in the company;
- to a trust, if a transfer from the grantor to the trust beneficiary would be exempt;
- of a deed executed pursuant to a completed land contract, provided the proper fee was paid when the document was recorded;
- to a "local exposition district";
- made under § 184.15, regarding transfers by a fiduciary to a nonprofit association; or
- of transmission facilities or land rights to the transmission company.

## **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section amended 2019.

[Wis. Stat. Ann. § 77.25 \(2020\)](#)

## Wisconsin, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the register of deeds receives a nominal recording fee that varies based on the document's length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2017.

[Wis. Stat. Ann. § 59.43 \(2020\)](#)

## Wisconsin, Other Relevant Provisions

No other relevant provisions were located.

## Wisconsin, Party Required to Pay Tax

### **TRANSFER TAX**

The real estate transfer fee is imposed on the grantor.

### **MORTGAGE RECORDATION TAX**

No applicable provisions were located.

Section 77.22 amended 2017.

[Wis. Stat. Ann. § 77.22 \(2020\)](#)

### Wisconsin, Transfer Tax Amount

### **STATE TAX**

Wisconsin imposes a real estate transfer fee on every conveyance not otherwise exempted or excluded. The tax rate is \$0.30 for each \$100 of value (or fraction thereof). In the case of land contracts, the value is "the total principal amount that the buyer agrees to pay the seller for the real estate."

### **CITY OR COUNTY TAX**

No applicable provisions were located.

Sections amended 2017.

[Wis. Stat. Ann. §§ 77.22, .88 \(2020\)](#)

### Wyoming

### Wyoming, Earmarked Use for Tax

No applicable provisions were located.

## Wyoming, Exemptions from Tax

No applicable provisions were located.

## Wyoming, Mortgage Recordation Tax Amount

### **INITIAL MORTGAGE**

No applicable provisions were located. However, the county treasurer collects a nominal recording fee, which varies based on the type of document and its length.

### **REFINANCED MORTGAGE**

No applicable provisions were located.

Section amended 2017.

Wyo. Stat. § 18-3-402 (2019)

## Wyoming, Other Relevant Provisions

No other relevant provisions were located.

## Wyoming, Party Required to Pay Tax

No applicable provisions were located.

## Wyoming, Transfer Tax Amount

No currently active applicable provisions were located. Although bills that would impose a real estate transfer tax have been introduced, they have not passed into law. See, e.g., [2018 Wyo. H.B. 177](#).