

CHAPTER 287

MORTGAGE REGISTRY TAX; DEED TAX

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287.035 IMPOSITION OF TAX.

A tax is imposed on the privilege of recording a mortgage. The tax rate is .0023 of the debt or portion of a debt that is secured by any recorded mortgage of real property located in this state. The person liable for the tax is the mortgagor. The tax is not imposed on the lawful interest amounts that may accrue with respect to a debt.

History: 1Sp2001 c 5 art 7 s 24

287.04 EXEMPTIONS.

The tax imposed by section 287.035 does not apply to:

- (a) A decree of marriage dissolution or an instrument made pursuant to it.
- (b) A mortgage given to correct a misdescription of the mortgaged property.
- (c) A mortgage or other instrument that adds additional security for the same debt for which mortgage registry tax has been paid.
- (d) A contract for the conveyance of any interest in real property, including a contract for deed.
- (e) A mortgage secured by real property subject to the minerals production tax of sections 298.24 to 298.28.
- (f) The principal amount of a mortgage loan made under a low and moderate income or other affordable housing program, if the mortgagee is a federal, state, or local government agency.
- (g) Mortgages granted by fraternal benefit societies subject to section 64B.24.
- (h) A mortgage amendment or extension, as defined in section 287.01.
- (i) An agricultural mortgage if the proceeds of the loan secured by the mortgage are used to acquire or improve real property classified under section 273.13, subdivision 23, paragraph (a), or (b), clause (1), (2), or (3).

History: 1Sp2001 c 5 art 7 s 25

287.08 TAX, HOW PAYABLE; RECEIPTS.

(a) The tax imposed by sections 287.01 to 287.12 must be paid to the treasurer of any county in this state in which the real property or some part is located at or before the time of filing the mortgage for record. The treasurer shall endorse receipt on the mortgage and the receipt is conclusive proof that the tax has been paid in the amount stated and authorizes any county recorder or registrar of titles to record the mortgage. Its form, in substance, shall be "registration tax hereon of dollars paid." If the mortgage is exempt from taxation the endorsement shall, in substance, be "exempt from registration tax." In either case the receipt must be signed by the treasurer. In case the treasurer is unable to determine whether a claim of exemption should be allowed, the tax must be paid as in the case of a taxable mortgage.

(b) The county treasurer may refund in whole or in part any mortgage registry tax overpayment if a written application by the taxpayer is submitted to the county treasurer within 3-1/2 years from the date of the overpayment. If the county has not issued a denial of the application, the taxpayer may bring an action in tax court in the county in which the tax was paid at any time after the expiration of six months from the time that the application was submitted. A denial of refund may be appealed within 60 days from the date of the denial by bringing an action in tax court in the county in

which the tax was paid. The action is commenced by the serving of a petition for relief on the county treasurer, and by filing a copy with the court. The county attorney shall defend the action. The county treasurer shall notify the treasurer of each county that has or would receive a portion of the tax as paid.

(c) If the county treasurer determines a refund should be paid, or if a refund is ordered by the court, the county treasurer of each county that actually received a portion of the tax shall immediately pay a proportionate share of three percent of the refund using any available county funds. The county treasurer of each county that received, or would have received, a portion of the tax shall also pay their county's proportionate share of the remaining 97 percent of the court-ordered refund on or before the 20th day of the following month using solely the mortgage registry tax funds that would be paid to the commissioner of revenue on that date under section 287.12. If the funds on hand under this procedure are insufficient to fully fund 97 percent of the court-ordered refund, the county treasurer of the county in which the action was brought shall file a claim with the commissioner of revenue under section 16A.48 for the remaining portion of 97 percent of the refund, and shall pay over the remaining portion upon receipt of a warrant from the state issued pursuant to the claim.

(d) When any mortgage covers real property located in more than one county in this state the total tax must be paid to the treasurer of the county where the mortgage is first presented for recording, and the payment must be receipted as provided in paragraph (a). If the principal debt or obligation secured by such a multiple county mortgage exceeds \$1,000,000, the nonstate portion of the tax must be divided and paid over by the county treasurer receiving it, on or before the 20th day of each month after receipt, to the county or counties entitled in the ratio that the market value of the real property covered by the mortgage in each county bears to the market value of all the real property in this state described in the mortgage. In making the division and payment the county treasurer shall send a statement giving the description of the real property described in the mortgage and the market value of the part located in each county. For this purpose, the treasurer of any county may require the treasurer of any other county to certify to the former the market valuation of any tract of real property in any mortgage.

(e) The mortgagor must pay the tax imposed by sections 287.01 to 287.12. The mortgagee may undertake to collect and remit the tax on behalf of the mortgagor. If the mortgagee collects money from the mortgagor to remit the tax on behalf of the mortgagor, the mortgagee has a fiduciary duty to remit the tax on behalf of the mortgagor as to the amount of the tax collected for that purpose and the mortgagor is relieved of any further obligation to pay the tax as to the amount collected by the mortgagee for this purpose.

History: *1Sp2001 c 5 art 7 s 26*

287.12 TAXES, HOW APPORTIONED.

(a) All taxes paid to the county treasurer under the provisions of sections 287.01 to 287.12 must be apportioned, 97 percent to the general fund of the state, and three percent to the county revenue fund.

(b) On or before the 20th day of each month the county treasurer shall determine and pay to the commissioner of revenue for deposit in the state treasury and credit to the general fund the state's portion of the receipts from the mortgage registry tax during the preceding month subject to the electronic payment requirements of section 270.771. The county treasurer shall provide any related reports requested by the commissioner of revenue.

History: *1Sp2001 c 5 art 17 s 6*

287.13 VIOLATIONS; CIVIL PENALTIES.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. **Payment to mortgagee.** If a mortgagee undertakes to collect from the mortgagor the amount of the tax due under sections 287.01 to 287.12 as provided in

section 287.08, paragraph (e), the mortgagor is not subject to the penalties under this section and the mortgagee is subject to the provisions of this section.

History: *1Sp2001 c 5 art 7 s 27*

287.20 DEFINITIONS; DEED TAX.

[For text of subd 1, see M.S.2000]

Subd. 2. **Consideration.** (a) "Consideration" means generally the total monetary value that is given in return for a conveyance of real property in this state and includes all lump-sum payments, all prior or future installment payments that are required under the agreement between the parties, and the fair market value of any property taken, or to be taken, in exchange.

(b) Consideration does not include the reasonable and lawful amounts of interest paid for the privilege of paying the purchase price in installments and the fair market value of any items of intangible personal property that are conveyed by the taxable instrument.

(c) Consideration does not include the amount paid for the personal property located on the real property being conveyed and transferred as a part of the total consideration, except that the amount paid for the personal property located on the real property being conveyed must be included if the real property being conveyed is a one-, two-, or three-unit residential structure.

(d) When a conveyance of real property is made pursuant to a contract for deed, the consideration is the price for the real property reflected in the contract; except that, subject to the limitations under section 287.221, if the contract for deed, or other agreement entered into as a condition to the seller executing the contract, requires the property to be improved during the term of the contract and the price of the real property as reflected in the contract does not include the consideration for the required improvements, then the consideration is the price for the real property as reflected in the contract and the consideration for the required improvements added during the term of the contract.

(e) "Total consideration" has the same meaning as consideration.

(f) "Consideration, exclusive of the value of any lien or encumbrance remaining at the time of sale" or "net consideration" means the amount of consideration as reduced by the amount outstanding under any lien that attached to the real property prior to the time of sale and that is not released or satisfied as a result of the sale.

[For text of subs 3 to 8, see M.S.2000]

Subd. 9. **Reorganization.** "Reorganization" means the transfer of substantially all of the assets of a corporation, a limited liability company, or a partnership not in the usual or regular course of business if at the time of the transfer the transfer qualifies as: (i) a corporate reorganization under section 368(a) of the Internal Revenue Code of 1986, as amended through December 31, 2000; or (ii) a transfer pursuant to the continuation of an existing partnership under section 708 of the Internal Revenue Code of 1986, as amended through December 31, 2000.

History: *1Sp2001 c 5 art 7 s 28,29*

287.21 IMPOSITION OF TAX; DETERMINATION OF TAX.

Subdivision 1. **Determination of tax.** (a) A tax is imposed on each deed or instrument by which any real property in this state is granted, assigned, transferred, or otherwise conveyed. The tax applies against the net consideration.

(b) The tax is determined in the following manner: (1) when transfers are made by instruments pursuant to mergers, consolidations, sales, or transfers of substantially all of the assets of the entities as defined in section 287.20, subdivision 9, pursuant to plans of reorganization, the tax is \$1.65; (2) when there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is \$500 or less, the tax is \$1.65; or (3) when the consideration,

exclusive of the value of any lien or encumbrance remaining at the time of sale, exceeds \$500, the tax is .0033 of the net consideration.

(c) The tax is due at the time a taxable deed or instrument is presented for recording.

History: *1Sp2001 c 5 art 7 s 30*

287.28 REFUNDS OR REDEMPTION.

(a) The county treasurer may redeem stamps issued under the authority of sections 287.20 to 287.31 that have been spoiled, destroyed, or rendered useless or unfit for the purpose intended or for which the owner may have no use or which through mistake may have been improperly or unnecessarily used. Redemption shall be made only upon written application of the taxpayer.

(b) The county treasurer may refund any deed tax overpayment if a written application by the taxpayer is submitted to the county treasurer within 3-1/2 years from the date of the overpayment. If the county has not issued a denial of the application, the taxpayer may bring an action in tax court in the county in which the tax was paid at any time after the expiration of six months from the time that the application was submitted. A denial of refund may be appealed within 60 days from the date of the denial by commencing an action in tax court in the county where the tax was paid. The action is commenced by serving a petition for relief on the county treasurer, and filing a copy with the court. The county attorney shall defend the action. The county treasurer shall notify the treasurer of each county that has, or would receive a portion of the tax as paid. Any refund of deed tax which the county treasurer determines should be made, and any court ordered refund of deed tax, shall be accomplished using the refund procedures in section 287.08.

History: *1Sp2001 c 5 art 7 s 31*