

CHAPTER 287

MORTGAGE REGISTRY TAX; DEED TAX

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MORTGAGE REGISTRY TAX

287.01 DEFINITIONS; MORTGAGE REGISTRY TAX.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 287.01 to 287.13, have the meanings given them in this section.

Subd. 2. **Amendment.** "Amendment" means generally a document that alters an existing mortgage without securing a new debt, or increasing the amount of an existing debt; and, that does not, in the case of a multistate mortgage described in section 287.05, subdivision 1, paragraph (b), result in an increased percentage of the real property encumbered by the mortgage being located in this state. A document is an amendment if it meets the definition in this subdivision, including documents that do any one or more of the following:

- (i) extends the time for payment of the unpaid portion of the original debt;
- (ii) changes the rate of interest applicable to the unpaid portion of the original debt;
- (iii) adds additional real property as security for the unpaid portion of the original debt;
- (iv) releases some but not all of the real property serving as security for the unpaid portion of the debt;
- (v) replaces all the real property serving as security for the unpaid portion of the debt with other real property regardless of value;
- (vi) replaces a party previously bound by the mortgage with a new party who becomes bound by the same amended mortgage; or
- (vii) reduces the amount of the debt secured by real property located in this state, or in the case of a multistate mortgage described in section 287.05, subdivision 1, paragraph (b), reduces the percentage of real property encumbered by the mortgage that is located in this state.

Subd. 3. **Debt.** "Debt" means the principal amount of an obligation to pay money that is secured in whole or in part by a mortgage of an interest in real property.

Subd. 4. **Decree of marriage dissolution.** "Decree of marriage dissolution" includes a summary real estate disposition judgment or an instrument made under it.

Subd. 5. **Extension.** "Extension" means any document that alters an existing mortgage by extending the time for repayment without increasing the amount of debt secured by real property that is located in this state.

Subd. 6. **Mortgage.** "Mortgage" means any instrument, including a decree of marriage dissolution or an instrument made under it, creating or evidencing a lien of any kind on real property, given by an owner of real property as security for a debt, notwithstanding that the debt may also be secured in part by a lien upon personalty.

Subd. 7. **Multistate mortgage.** "Multistate mortgage" means a mortgage that encumbers real property located both in and outside of this state.

Subd. 8. **Person.** "Person" includes any individual, partner, officer, director, firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, a state, any political subdivision of a state, or any group or combination acting as a unit, and the plural as well as the singular. The term includes any agent of any individual or organization enumerated in this subdivision.

Subd. 9. **Real property, real estate, and land.** "Real property," "real estate," and "land" have the meanings contained in chapter 500, and include all interests in real property that can be conveyed by a document which may be recorded.

Subd. 10. **Record, recorded, and recording.** "Record," "recorded," and "recording" each mean that a document has been delivered to and filed in the office of the county recorder or registrar of titles, whichever office maintains the records for the real property described in the document.

**History:** (2322) 1907 c 328 s 1; 1965 c 51 s 51; 1976 c 181 s 2; 1983 c 233 s 1; 1990 c 575 s 1; 1999 c 31 s 1; 1999 c 243 art 16 s 11; 2000 c 490 art 10 s 2

**287.02** [Repealed, 1987 c 268 art 14 s 25]

### **287.03 INSTRUMENTS VALID SECURITY FOR DEBT.**

No instrument, other than a decree of marriage dissolution or an instrument made pursuant to it, relating to real estate shall be valid as security for any debt, unless the fact that it is intended and the initial known amount of the debt are expressed in it.

**History:** (2322) 1907 c 328 s 1; 1983 c 233 s 2; 1999 c 31 s 2

### **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:** 1999 c 31 s 3; 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:** (2322) 1907 c 328 s 1; 1965 c 51 s 53; 1967 c 340 s 1; 1983 c 233 s 3; 1993 c 271 s 4; 1999 c 31 s 4; 1Sp2001 c 5 art 7 s 25

#### 287.05 DETERMINATION OF TAX IN SPECIAL SITUATIONS.

Subdivision 1. **Real property outside Minnesota.** (a) When a multistate mortgage is intended to secure only a portion of a debt amount recited or referred to in the mortgage, the mortgage may contain the following statement, or its equivalent, on the first page: "Notwithstanding anything to the contrary herein, enforcement of this mortgage in Minnesota is limited to a debt amount of \$..... under chapter 287 of Minnesota Statutes." In such case, the tax shall be imposed based only on the amount of debt so stated to be secured by real property located in this state; and, the effect of the mortgage, or any amendment or extension, as evidence in any court in this state, or as notice for any purpose in this state, shall be limited to the amount contained in the statement and for which the tax has been paid and additional amounts for accrued interest and advances not subject to tax under subdivision 4 or section 287.035.

(b) All multistate mortgages not taxed under paragraph (a) shall be taxed under sections 287.01 to 287.13 as if the real property identified in the mortgage secures payment of that portion of the maximum debt amount referred to, or incorporated by reference, in the mortgage that is equal to a fraction the numerator of which is the value of the real property described in the mortgage that is located in this state and the denominator of which is the value of all the real property described in the mortgage.

Subd. 1a. **Real property in this state secures portion of debt.** (a) When the real property identified in a mortgage is located entirely in this state and is intended to secure only a portion of a debt amount recited or referred to in the mortgage, the mortgage may contain the following statement, or its equivalent, on the first page: "Notwithstanding anything to the contrary herein, enforcement of this mortgage is limited to a debt amount of \$..... under chapter 287 of Minnesota Statutes." In such case, the tax shall be imposed based only on the amount of debt so stated to be secured by real property; and, the effect of the mortgage, or any amendment or extension, as evidence in any court in this state, or as notice for any purpose in this state, shall be limited to the amount contained in the statement and for which the tax has been paid and additional amounts for accrued interest and advances not subject to tax under subdivision 4 or section 287.035.

(b) All mortgages that are not multistate mortgages and that are not taxed under paragraph (a) shall be taxed under sections 287.01 to 287.13 as if the real property identified in the mortgage secures payment of the maximum debt amount referred to, or incorporated by reference, in the mortgage.

Subd. 2. **Supplemental mortgages.** Except for an amendment or a revision to a reverse mortgage as described under subdivision 6, any document that alters an existing mortgage by providing for an increase in the amount of debt secured by real property located in this state, or, in the case of a multistate mortgage described in subdivision 1, paragraph (b), an increase in the percentage of Minnesota real estate as compared to the total real estate that is encumbered by the mortgage, shall be taxed based upon the increase in the amount of the debt determined to be secured by real property located in this state under either subdivision 1 or 1a.

Subd. 3. **Revolving lines of credit.** When a mortgage, including a reverse mortgage, secures a revolving line of credit under which advances, payments, and readvances may be made from time to time, the tax imposed under section 287.035 must be paid on the maximum amount of the line of credit that may be secured at any one time, as expressed in the mortgage, regardless of the time or amount of advances, payments, or readvances.

Subd. 4. **Advances by mortgagee.** No tax under section 287.035 shall be paid on the indeterminate amount that may be advanced by the mortgagee in protection of the mortgaged premises or the mortgage, including taxes, assessments, charges, claims, fines, impositions, and insurance premiums; the amounts due upon prior or superior mortgages and other prior or superior liens, encumbrances, and interests; and legal expenses and attorneys' fees.

Subd. 5. **Indeterminate amounts.** When a mortgage secures an indeterminate amount other than those described in subdivision 3, 4, or 6, no tax shall be paid at the time the mortgage is recorded, but the tax must be paid at the time of recording an affidavit or other document stating the amount and time of the actual advance.

Subd. 6. **Reverse mortgages.** If real property secures a reverse mortgage, the principal debt or obligation to which mortgage registry tax applies is the expected total disbursements or cash equivalent to be made under the terms of the loan. Interest accruing on the disbursements made is not subject to mortgage registry tax. In the case of periodic payments made for an indefinite length of time, the expected total disbursements must equal the product of the periodic payment amounts and the number of payments and, if applicable, the amount of cash distribution or its equivalent. The number of payments must be based upon the life expectancy assumption used in determining the payment amount. In the case of reverse mortgages made as part of the Housing and Community Development Act of 1987, section 255 of the National Housing Act, and administered by the Department of Housing and Urban Development (HUD), mortgage registry tax must not be assessed on Federal Housing Administration mortgage insurance premiums, monthly lender service fees, or payments to be distributed to the borrower by HUD.

Subd. 7. **Mortgages to secure obligations to be issued.** If a mortgage is made to a mortgagee in trust to secure the payment of bonds or other obligations yet to be issued, a statement may be incorporated in the mortgage stating the amount of the obligations already issued or yet to be issued, and the tax to be paid on filing the mortgage for recording must be computed upon the amount so stated. The statement must be binding and conclusive upon all persons claiming through or under the mortgage, and no such obligation issued in excess of the aggregate so fixed is valid for any purpose unless the additional tax is paid and receipted by the proper county treasurer.

Subd. 8. **Amendments.** An amendment may contain the following statement, or its equivalent, on its first page: "This is a mortgage amendment, as defined in Minnesota Statutes, section 287.01, subdivision 2, and as such it does not secure a new or an increased amount of debt." In such cases, the document will be treated as a mortgage amendment, as defined in section 287.01, subdivision 2, for all purposes and does not serve to secure a new or an increased amount of debt.

**History:** (2323) 1907 c 328 s 2; 1913 c 163 s 1; 1917 c 73 s 1; 1921 c 445 s 1; 1945 c 288 s 1; 1951 c 591 s 1; 1957 c 167 s 1; 1961 c 499 s 1; 1967 c 340 s 2; 1973 c 582 s 3; 1983 c 342 art 2 s 24; 1984 c 502 art 14 s 7-9; 1Sp1985 c 14 art 11 s 1; 1987 c 268 art 14 s 13; 1987 c 403 art 2 s 147; 1991 c 291 art 20 s 2; 1999 c 31 s 5; 1999 c 243 art 16 s 12,13

**287.06** [Repealed, 1999 c 31 s 26]

**287.07** [Repealed, 1999 c 31 s 26]

### **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

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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:** (2326) 1907 c 328 s 5; 1965 c 51 s 55; 1976 c 181 s 2; 1983 c 222 s 21; 1Sp1985 c 14 art 11 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1997 c 84 art 1 s 2; 1998 c 389 art 3 s 15; 1999 c 31 s 6; 1Sp2001 c 5 art 7 s 26

**287.09** [Repealed, 1999 c 31 s 26]

## **287.10 PREPAYMENT OF TAX; EVIDENCE; NOTICE.**

A mortgage, or documents relating to its foreclosure, assignment, or satisfaction, must not be recorded unless the tax has been paid. Except as provided in section 582.25, a document or any record of the mortgage may not be received in evidence in

any court, and is not valid notice, unless the tax has been paid. If the tax is paid, an error in computation or ascertainment of the amount does not affect the validity of the mortgage or the record or foreclosure. This section does not apply to a mortgage that is exempt from the tax imposed under section 287.035.

**History:** (2328) 1907 c 328 s 7; 1913 c 163 s 2; 1929 c 222 s 1; 1Sp1985 c 18 s 3; 1987 c 268 art 14 s 14; 1999 c 31 s 7

### **287.11 MORTGAGES RECORDED OR REGISTERED PRIOR TO PASSAGE OF SECTIONS 287.01 TO 287.12.**

All mortgages of real property recorded prior to the passage of sections 287.01 to 287.12 are taxable under the provisions of law existing prior to the enactment of sections 287.01 to 287.12; provided, that the holder of any such mortgage may pay to the treasurer of the proper county the tax based upon the amount of the debt secured by the mortgage at the time of the payment as stated by the affidavit of the owner of the mortgage. The affidavit may be filed with the county treasurer, in which case the treasurer's receipt must be endorsed on it. The county recorder or registrar of titles, on presentation of the receipt, shall make a record of the date and amount of the payment. Thereafter the mortgage lien shall not be otherwise taxable.

**History:** (2329) 1907 c 328 s 8; 1913 c 163 s 3; 1965 c 51 s 56; 1976 c 181 s 2; 1999 c 31 s 8

### **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:** (2330) 1907 c 328 s 9; 1913 c 352 s 1; 1963 c 713 s 1; 1965 c 51 s 57; 1969 c 399 s 49; 1973 c 650 art 5 s 1; 1981 c 164 s 1; 1Sp1985 c 14 art 11 s 4; 1Sp1986 c 1 art 4 s 36; 1987 c 403 art 2 s 148; 1989 c 282 art 1 s 19; 1Sp1989 c 1 art 3 s 24; 1999 c 31 s 9; 1Sp2001 c 5 art 17 s 6

### **287.13 VIOLATIONS; CIVIL PENALTIES.**

Subdivision 1. **Failure to pay full amount.** Any person liable for the tax imposed by section 287.035 who fails to pay the full amount of mortgage registry tax imposed under this chapter, unless the failure is shown to be due to reasonable cause, is liable for a civil penalty of \$250 or 100 percent of the tax for each such failure, whichever is less.

Subd. 2. **Additional penalty.** Any person who willfully attempts to evade or defeat the tax imposed under sections 287.01 to 287.12, or the payment thereof, shall, in addition to the penalty provided in subdivision 1, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax.

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:** 1997 c 84 art 6 s 17; 1999 c 31 s 10; 1Sp2001 c 5 art 7 s 27

## **DEED TAX**

### **287.20 DEFINITIONS; DEED TAX.**

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases,

for the purposes of sections 287.21 to 287.31, have the meanings given to them in this section.

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.

Subd. 3. **Consolidation or merger.** "Consolidation" or "merger" means the combination of all of the assets of two or more corporations, limited liability companies, or partnerships, or any combination of these entities, whether or not title to the assets is taken by a newly created entity or by a preexisting entity that survives the consolidation or merger in an altered form.

Subd. 4. **Documentary stamps.** "Documentary stamps" means all stamps issued by the county for use in payment of the taxes imposed by sections 287.21 to 287.37.

Subd. 5. **Lien.** "Lien" means any legal claim, other than an easement, created by contract, statute, or law on the real property of another as security for a debt or obligation. For purposes of the deed tax, the term "encumbrance" is synonymous with the term "lien" and an easement is not a lien.

Subd. 6. **Person.** "Person" includes any individual, partner, officer, director, firm, partnership, joint venture, limited liability company, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, a state, any political subdivision of a state, or any group or combination acting as a unit, and the plural as well as the singular. The term includes directors and officers of corporations, governors and managers of a limited liability company, or members of partnerships who, either individually or jointly with others, have control, supervision, or responsibility of making or authorizing payment of the tax imposed by section 287.21. The term includes any agent of any individual or organization enumerated in this subdivision.

Subd. 7. **Real property, real estate, and land.** "Real property," "real estate," and "land" mean any fee simple estate, and any estate for life, as defined in chapter 500, and the purchaser's interest under a contract for the conveyance of such an estate.

Subd. 8. **Record, recorded, and recording.** "Recrd.," "recorded," and "recording" each mean that a document has been delivered to and filed in the office of the county recorder or registrar of titles, whichever office maintains the records for the real property described in the document.

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:** 1999 c 31 s 11; 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.

Subd. 2. [Repealed, 1999 c 31 s 26]

Subd. 3. [Expired]

Subd. 4. [Repealed, 1999 c 31 s 26]

**History:** 1961 c 647 s 1; Ex1967 c 32 art 11 s 1; 1969 c 399 s 24; 1973 c 118 s 1; 1Sp1985 c 14 art 11 s 5; 1987 c 268 art 14 s 15; 1987 c 403 art 2 s 149; 1988 c 719 art 19 s 13; 1990 c 480 art 7 s 23; 1993 c 375 art 3 s 39; 1999 c 31 s 12; 1Sp2001 c 5 art 7 s 30

### 287.22 EXEMPTIONS.

The tax imposed by section 287.21 does not apply to:

(1) 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;

(2) A mortgage or an amendment, assignment, extension, partial release, or satisfaction of a mortgage;

(3) A will;

(4) A plat;

(5) A lease, amendment of lease, assignment of lease, or memorandum of lease;

(6) A deed, instrument, or writing in which the United States or any agency or instrumentality thereof is the grantor, assignor, transferor, conveyer, grantee, or assignee;

(7) A deed for a cemetery lot or lots;

(8) A deed of distribution by a personal representative;

(9) A deed to or from a co-owner partitioning their undivided interest in the same piece of real property;

(10) A deed or other instrument of conveyance issued pursuant to a permanent school fund land exchange under section 92.121 and related laws;



(11) A referee's or sheriff's certificate of sale in a mortgage or lien foreclosure sale;

(12) A referee's, sheriff's, or certificate holder's certificate of redemption from a mortgage or lien foreclosure sale issued to the redeeming mortgagor or lienee;

(13) A deed, instrument, or writing which grants, creates, modifies, or terminates an easement; and

(14) A decree of marriage dissolution, as defined in section 287.01, subdivision 4, or a deed or other instrument between the parties to the dissolution made pursuant to the terms of the decree.

**History:** 1961 c 647 s 2; 1963 c 249 s 1; 1971 c 835 s 1; 1975 c 347 s 1; 1984 c 590 s 1; 1987 c 268 art 14 s 16; 1991 c 291 art 21 s 11; 1993 c 375 art 3 s 40; 1997 c 31 art 3 s 13; 1997 c 231 art 16 s 9; 1999 c 31 s 13

#### **287.2205 TAX-FORFEITED LAND.**

Before a state deed for tax-forfeited land may be issued, the deed tax must be paid by the purchaser of tax-forfeited land whether the purchase is the result of a public auction or private sale or a repurchase of tax-forfeited land. State agencies and local units of government that acquire tax-forfeited land by purchase or any other means are subject to this section.

**History:** 1999 c 31 s 14

#### **287.221 NEW RESIDENTIAL CONSTRUCTION.**

The commissioner of revenue may not enforce a deed tax assessment on the consideration paid for an improvement in the case of new residential construction if, at or before the time the first residential owners of the improvement take possession, the deed tax has been paid on the consideration paid for the improvement.

**History:** 1997 c 231 art 16 s 10

#### **287.23 REAL PROPERTY OUTSIDE COUNTY OR STATE.**

Subdivision 1. **Real property outside county.** If any taxable deed or instrument describes any 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 document is first presented for recording, and the payment must be receipted as provided in section 287.08. If the net consideration exceeds \$700,000, 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 which the market value of the real property covered by the document in each county bears to the market value of all the real property in this state described in the document. In making the division and payment the county treasurer shall send a statement to the other involved counties giving the description of the real property described in the document and the market value of the part located in each county. The treasurer of any county may require the treasurer of any other county to certify to the former the market valuation of any parcel of real property for this purpose.

Subd. 2. **Real property outside state.** If any deed or instrument describes any real property located outside of this state, the tax imposed by section 287.21 must be measured upon such proportion of the consideration, exclusive of the value of any lien or encumbrance remaining at the time of sale, as the value of the real property described in this state bears to the value of the whole of the real property described in the deed or instrument.

**History:** 1961 c 647 s 3; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 6; 1999 c 31 s 15

#### **287.24 PERSONS LIABLE.**

Subdivision 1. **General rule.** Any person who grants, assigns, transfers, or conveys any real property by a deed or instrument subject to the tax imposed by section 287.21

shall be liable for such tax but no public official shall be liable for a tax with respect to any instrument executed by the official in connection with official duties.

Subd. 2. **Other responsible persons.** If an underpayment is assessable by the commissioner of revenue against a grantor pursuant to section 287.37, and the grantor is a business entity no longer in existence, any person who, either individually or jointly with others, had control over, supervision of, or responsibility for making the statement of tax due or exemption from tax that was submitted to the county treasurer under section 287.241, subdivision 1, can be assessed and held liable by the commissioner for the underpayment.

**History:** 1961 c 647 s 4; 1986 c 444; 1999 c 31 s 16

### **287.241 STATEMENT OF TAX DUE OR EXEMPTION; RECORDING OR REGISTERING OF DOCUMENTS.**

Subdivision 1. **Statement of tax due or exemption.** No deed or instrument, taxable under the provisions of section 287.21, shall be recorded unless it contains the statement of the grantor or grantee, or any successor in interest, setting forth the amount of tax due under this chapter or that it is exempt from tax. The county recorder or registrar of titles shall record any deed or instrument when the statement sets forth that the transfer is tax exempt, or when documentary stamps or the treasurer's receipt appear for the amount of deed tax recited in the statement. The validity or effectiveness of a deed or instrument as between the parties, and as to any person who would otherwise be bound, is not affected by the failure to comply with this section. If a deed or instrument is accepted for recording contrary to this section, the failure to comply does not destroy or impair the record of the deed or instrument as notice.

Subd. 2. **Notice of certificate of value.** No deed or instrument providing for the transfer of title to real property that is subject to the tax as provided in section 287.21, and no executory contract for the sale of land, shall be recorded unless such deed or instrument is accompanied by a notice from the county auditor that a certificate of value was filed in the auditor's office as provided in section 272.115.

Subd. 3. [Repealed, 1977 c 423 art 4 s 11]

Subd. 4. [Repealed, 1977 c 423 art 4 s 11]

**History:** 1963 c 831 s 1; 1971 c 838 s 1; 1973 c 582 s 3; 1974 c 253 s 1,2; 1976 c 181 s 2; 1977 c 423 art 4 s 10; 1986 c 444; 1999 c 31 s 17

### **287.25 PAYMENT OF TAX; STAMPS.**

The county board shall determine the method for collection of the tax imposed by section 287.21:

(1) The tax imposed by section 287.21 may be paid by the affixing of a documentary stamp or stamps in the amount of the tax to the document or instrument with respect to which the tax is paid, provided that the county board may permit the payment of the tax without the affixing of the documentary stamps and in such cases shall direct the treasurer to endorse a receipt for such tax upon the face of the document or instrument.

(2) The tax imposed by section 287.21 may be paid in the manner prescribed by section 287.08 relating to payment of mortgage registration tax.

**History:** 1961 c 647 s 5; 1969 c 399 s 1; 1973 c 582 s 3; 1985 c 300 s 18; 1Sp1985 c 14 art 11 s 7

### **287.26 CANCELLATION OF STAMPS.**

A person using or affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it in ink with the person's initials and the date on which such affixing occurs.

**History:** 1961 c 647 s 6; 1986 c 444

**287.27 STAMPS; PRINTING AND SALE-METERS.**

Subdivision 1. The county board may have documentary stamps printed and furnish them to the county treasurer. Documentary stamps may be purchased only from the county treasurer and may not be sold for use in any county other than the county in which the property is located.

Subd. 2. The county board may authorize any person to utilize a tax meter machine upon the filing of a corporate surety bond, in a suitable amount to guarantee the payment of the tax, such amount to be determined by the county board.

The county board may provide rules for the use of such a machine, supervise its operation and provide for the payment of the tax on any deed or document so stamped.

**History:** 1961 c 647 s 7; 1965 c 454 s 1; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 13; 1Sp1986 c 1 art 4 s 49,50

**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:** 1961 c 647 s 8; 1969 c 97 s 3; 1969 c 399 s 1; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 9; 1997 c 84 art 1 s 3; 2000 c 260 s 48; 1Sp2001 c 5 art 7 s 31

**287.29 PAYMENT OF RECEIPTS TO STATE GENERAL FUND; REPORTS.**

Subdivision 1. **Appointment and payment of tax proceeds.** (a) The proceeds of the taxes levied and collected under sections 287.21 to 287.39 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 for deed tax from the preceding month subject to the electronic transfer requirements of section 270.771. The county treasurer shall provide any related reports requested by the commissioner of revenue.

Subd. 2. [Repealed, 1981 c 164 s 12]

Subd. 3. [Repealed, 1Sp1985 c 14 art 11 s 13]

**History:** 1961 c 647 s 9; 1969 c 399 s 1; 1973 c 582 s 3; 1981 c 164 s 2; 1Sp1985 c 14 art 11 s 10; 1Sp1986 c 1 art 4 s 37; 1Sp1989 c 1 art 3 s 25; 1990 c 480 art 7 s 24; 1999 c 31 s 18; 2000 c 260 s 49

**287.30 COUNTY TREASURER; DUTIES.**

The care of documentary stamps entrusted to county treasurers and the duties imposed upon county treasurers by this chapter are within the duties of such office and are within the coverage of any official bond delivered to the state, conditioned that any such officer shall faithfully execute the duties of office. The county board may by

resolution require the county auditor to perform any duty imposed on the county treasurer under this chapter.

**History:** 1961 c 647 s 10; 1986 c 444; 1999 c 31 s 19

### 287.31 VIOLATIONS; CIVIL PENALTIES.

Subdivision 1. **Failure to pay full amount.** Any person liable for the tax imposed by section 287.21 who fails to pay the full amount of deed tax imposed under this chapter, unless the failure is shown to be due to reasonable cause, is liable to a civil penalty of \$250, or 100 percent of the tax, for each such failure, whichever is less.

Subd. 2. **Willful evasion.** Any person who willfully attempts in any manner to evade or defeat any such tax or the payment thereof, is, in addition to other penalties provided by law, liable to a penalty of 50 percent of the total amount of the underpayment of the tax.

**History:** 1961 c 647 s 11; 1997 c 84 art 6 s 18; 1999 c 31 s 20

287.32 [Repealed, 1Sp1985 c 14 art 11 s 13]

## PENALTY AND ADMINISTRATIVE PROVISIONS OF COMMON APPLICABILITY

### 287.325 VIOLATIONS; CRIMINAL PENALTIES.

Any person who in any manner intentionally attempts to evade a tax imposed by this chapter, or who intentionally aids or abets in the evasion or attempted evasion of such tax is guilty of a gross misdemeanor.

**History:** 1999 c 31 s 21

### 287.33 EXPENSES OF ADMINISTRATION.

Expenses of administration of this chapter to be paid out of county funds include fees and expenses incurred by the county attorney in connection with this chapter and all other costs and expenses.

**History:** 1961 c 647 s 13; 1973 c 582 s 3; 1Sp1985 c 14 art 11 s 11; 1999 c 31 s 22

287.34 [Repealed, 1999 c 31 s 26]

287.35 [Repealed, 1999 c 31 s 26]

287.36 [Repealed, 1999 c 31 s 26]

### 287.37 INVESTIGATIONS AND ASSESSMENTS.

The commissioner of revenue may investigate and examine persons and transactions that are subject to this chapter using the powers and authorities granted in chapters 270 and 289A. The commissioner may issue orders of assessment under chapter 289A, and enforce collection of unpaid tax or penalty amounts, including interest, under the authority of chapter 270. All tax amounts collected by the commissioner must be apportioned under section 287.12. The commissioner's expenses under this section are not expenses of administration under section 287.33. All data and information made available to the commissioner under this section is public except for investigative data covered by section 270B.03, subdivision 6.

**History:** 1996 c 471 art 3 s 32

### 287.38 LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.

Subdivision 1. **General rule.** Except as otherwise provided in this section, the amount of taxes assessable under this chapter must be assessed within 3-1/2 years after the date the document is recorded.

Subd. 2. **Omission in excess of 25 percent.** Additional taxes may be assessed within 6-1/2 years after the document was recorded, if the taxpayer underpays the tax due on

the filing of that document by more than 25 percent or the document was erroneously treated as exempt.

Subd. 3. **Fraud.** Notwithstanding the limitations under subdivision 1, additional taxes may be assessed at any time if a document is presented for recording with a fraudulent intent to underpay the taxes imposed by this chapter.

**History:** 1999 c 31 s 23

### 287.385 INTEREST.

Subdivision 1. **Interest rate.** If an interest assessment is required under this section, interest is computed at the rate specified in section 270.75.

Subd. 2. **Late payment.** If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. **Extensions.** If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.

Subd. 4. **Additional assessments.** If a taxpayer is liable for additional taxes because of a redetermination by the commissioner of revenue, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.

Subd. 5. **Refunds.** (a) Interest must be paid at the rate specified in section 270.75 on an overpayment that is refunded or credited to a taxpayer more than 30 days after a refund request is made. Interest does not apply to the 30-day period.

(b) In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the department of revenue or the county, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 6. **Interest on judgments.** Notwithstanding section 549.09, if judgment is entered in favor of the commissioner of revenue or a county with regard to any tax under this chapter, the judgment bears interest at the rate specified in section 270.75 from the date the judgment is entered until the date of payment.

Subd. 7. **Interest on penalties.** A penalty imposed under this chapter bears interest from the date payment was required to be paid, including any extensions, to the date of payment of the penalty.

**History:** 1999 c 31 s 24

### 287.39 ADMINISTRATIVE REVIEW.

Subdivision 1. **Taxpayer right to reconsideration.** Under this section, a taxpayer may obtain reconsideration by the commissioner of revenue of:

- (1) an order of the commissioner assessing tax;
- (2) a denial by the commissioner of a request for abatement of penalty; or
- (3) a denial by the commissioner of a claim for refund of money paid to the commissioner as a result of an assessment or order issued by the commissioner under this chapter, by filing an administrative appeal as provided in subdivision 4.

A taxpayer cannot obtain reconsideration if the action taken by the commissioner of revenue is the outcome of an administrative appeal.

Subd. 2. **Appeal by taxpayer.** A taxpayer who wishes to seek administrative review shall follow the procedure in subdivision 4.

Subd. 3. **Notice date.** For purposes of this section, "notice date" means the date of the order adjusting the tax or order denying a request for abatement or, in the case of a denied refund, the date of the notice of denial.

Subd. 4. **Time and content for administrative appeal.** Within 60 days after the notice date, the taxpayer shall file a written appeal with the commissioner of revenue.

The appeal need not be in any particular form, but must contain the following information:

- (1) name and address of the taxpayer;
- (2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;
- (3) the Minnesota identification number or social security number of the taxpayer;
- (4) the type of tax involved;
- (5) the date;
- (6) the tax periods involved and the amount of tax involved for each period;
- (7) the findings in the notice that the taxpayer disputes;
- (8) a summary statement that the taxpayer relies on for each exception; and
- (9) the taxpayer's signature or the signature of the taxpayer's duly authorized agent.

**Subd. 5. Extensions.** If requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period of not more than 30 days from the expiration of the 60 days from the notice date.

**Subd. 6. Determination of appeal.** On the basis of applicable law and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

**Subd. 7. Agreement determining tax liability.** If the commissioner determines that it is in the best interests of the state, the commissioner may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer or the taxpayer's representative authorized by the taxpayer to enter into an agreement. The agreement is final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

**Subd. 8. Appeal of an administrative determination.** Following the determination of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commissioner shall issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. The order is appealable to the Minnesota tax court under section 271.06.

**Subd. 9. Appeal where no determination.** If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.

**Subd. 10. Exemption from Administrative Procedure Act.** This section is not subject to chapter 14.

**History:** 1999 c 31 s 25