

CHAPTER 287

MORTGAGE REGISTRY TAX; DEED TAX

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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).
- (j) A mortgage on an armory building as set forth in section 193.147.

History: 2005 c 151 art 8 s 1

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 270C.42. The county treasurer shall provide any related reports requested by the commissioner of revenue.

(c) Counties must remit the state's portion of the June receipts collected through June 25 and the estimated state's portion of the receipts to be collected during the remainder of the month to the commissioner of revenue two business days before June 30 of each year. The remaining amount of the June receipts is due on August 20.

History: 2005 c 151 art 2 s 17

287.20 DEFINITIONS; DEED TAX.

[For text of subd 1, see M.S.2004]

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.

(g) Except in the case of a gift, when the amount of the consideration for a conveyance includes something other than money or promises to pay money, the consideration for that conveyance is rebuttably presumed to equal the fair market value of the real property being conveyed.

[For text of subd. 3, see M.S.2004]

Subd. 3a. Designated transfer. "Designated transfer" means any of the following:

(1) a transfer between (i) an entity owned by a sole owner, and (ii) that sole owner;

(2) a transfer between (i) an entity in which a husband, a wife, or both are the sole owners, and (ii) the husband, wife, or both;

(3) a transfer between (i) an entity with multiple co-owners, and (ii) all of the co-owners, so long as each of the co-owners maintains the same percentage ownership interest in the transferred real property, whether directly or through ownership of a percentage of the entity;

(4) a transfer between (i) a revocable trust, and (ii) the grantor or grantors of the revocable trust; or

(5) a transfer of substantially all of the assets of one or more entities pursuant to a reorganization, as defined in section 287.20, subdivision 9.

For purposes of this definition of designated transfer, an interest in an entity that is owned, directly or indirectly, by or for another entity shall be considered as being owned proportionately by or for the owners of the other entity under provisions similar to those of section 267(c)(1) and (5) of the Internal Revenue Code of 1986, as amended through December 31, 2004.

[For text of subs 4 to 8, see M.S.2004]

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, 2004; or (ii) a transfer from a partnership to another partnership when the transferee is treated as a continuation of the transferor

under section 708 of the Internal Revenue Code of 1986, as amended through December 31, 2004.

History: *1Sp2005 c 3 art 6 s 1-3*

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. For purposes of the tax, 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.

(b) The tax is determined in the following manner: (1) when transfers are made by instruments pursuant to (i) consolidations or mergers, or (ii) designated transfers, 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) If, within six months from the date of a designated transfer, an ownership interest in the grantee entity is transferred by an initial owner to any person or entity with the result that 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 for the designated transfer. If the subsequent transfer of ownership interests was reasonably expected at the time of the designated transfer, the applicable penalty under section 287.31, subdivision 1, must be paid. The deed tax imposed under this paragraph is due within 30 days of the subsequent transfer that caused the tax to be imposed under this paragraph. Involuntary transfers of ownership shall not be considered transfers of ownership under this paragraph. The commissioner may adopt rules defining the types of transfers to be considered involuntary.

(d) The tax is due at the time a taxable deed or instrument is presented for recording, except as provided in paragraph (c). The commissioner may require the tax to be documented in a manner prescribed by the commissioner, and may require that the documentation be attached to and recorded as part of the deed or instrument. The county recorder or registrar of titles shall accept the attachment for recording as part of the deed or instrument and may not require, as a condition of recording a deed or instrument, evidence that a transfer is a designated transfer in addition to that required by the commissioner. Such an attachment shall not, however, provide actual or constructive notice of the information contained therein for purposes of determining any interest in the real property. The commissioner shall prescribe the manner in which the tax due under paragraph (c) is to be paid and may require grantees of designated transfers to file with the commissioner subsequent statements verifying that the tax provided under paragraph (c) does not apply.

History: *1Sp2005 c 3 art 6 s 4*

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 270C.42. The county treasurer shall provide any related reports requested by the commissioner of revenue.

(c) Counties must remit the state's portion of the June receipts collected through June 25 and the estimated state's portion of the receipts to be collected during the

remainder of the month to the commissioner of revenue two business days before June 30 of each year. The remaining amount of the June receipts is due on August 20.

History: 2005 c 151 art 2 s 17

287.37 COMMISSIONER'S POWERS; DATA CLASSIFICATION.

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 270C and 289A. The audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A apply to the taxes imposed by this chapter. 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: 2005 c 151 art 2 s 7

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 270C.40.

[For text of subs 2 to 4, see M.S.2004]

Subd. 5. **Refunds.** (a) Interest must be paid at the rate specified in section 270C.40 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 270C.40 from the date the judgment is entered until the date of payment.

[For text of subd 7, see M.S.2004]

History: 2005 c 151 art 2 s 17

287.39 [Repealed, 2005 c 151 art 1 s 117]