

Florida Documentary Stamp Tax: List of Tax Exempt Documents

If document is exempt from tax, this statute and the applicable section must be stated on the face of the document.

12B-4.014 Conveyances Not Subject to Tax.

(1) Security for Debt: The reconveyance of realty conveyed to secure a debt upon payment of such debt is not taxable.

(2) No Consideration:

(a) A conveyance of unencumbered realty as a gift is not taxable.

(b) A deed of conveyance reciting a consideration such as “love and affection and \$1,” “desire to promote welfare and \$1,” or “\$1 and other valuable consideration,” requires at least the minimum tax.

(3) To Correct Error: Where a conveyance is made to correct a deficiency in a previous deed on which the tax has been paid, only minimum tax is required. (1933 Op. Att’y. Gen. Fla. 1933-34 Biennial Report, Page 50 (April 7, 1933); Letter from the Att’y. Gen. Fla. to State Comptroller (Dec. 10, 1962))

(4) Personal Representative’s Deed: A deed given by a personal representative in accordance with the terms of a will is not taxable, including any term of the will that authorizes the personal representative to allocate and convey different parcels to different devisees instead of conveying undivided interests in each parcel. However, if a devisee takes a greater share in the realty than that to which the devisee is entitled under the will, the deed given by the personal representative to convey such greater share is subject to a tax computed upon the amount of any consideration given.

(5) Agent to Principal: A deed from an agent to his principal conveying real estate purchased for and with funds of the principal is not taxable.

(6) Partition Deed: Partition deed is not taxable, unless for consideration, some of the parties take shares greater in value than their undivided interest, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess. Where the property being partitioned is subject to a mortgage, tax shall be based on the mortgage balance in proportion to the identical interest which the grantor held in the property as of the date of transfer.

(7) Leases of Real Property: Leases wherein considerations passing to lessors are lessee’s promises in future to pay rent are not subject to documentary stamp tax imposed since considerations passing to lessors are executory. (DeVore v. Gay, 39 So. 2d 796 (Fla. 1949))

Cross Reference – subsection 12B-4.013(24), F.A.C.

(8) United States to Non-Exempt Party: The United States or its agencies are exempt from payment of the tax and unless the instrument is exempted by any state or federal law, the required tax is the responsibility of the non-exempt party.

Cross Reference – subsection 12B-4.002(2), F.A.C.

(9) Mortgagee to United States; Contract of Guaranty: Conveyance from bank, savings and loan association or

other mortgagee to federal agency pursuant to a contract of guaranty is not taxable. (1961 Op. Att’y. Gen. Fla. 061-46 (Mar. 14, 1961); 1961 Op. Att’y. Gen. Fla. 061-84 (May 19, 1961); 1961 Op. Att’y. Gen. Fla. 061-122 (Aug. 1, 1961))

(10) Conveyances Between Governmental Agencies: Conveyances from federal or state agencies or their instrumentalities to another agency or instrumentality of the state or federal government are not taxable. (1931 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 892 (Dec. 16, 1931); 1936 Op. Att’y. Gen. Fla. 1935-36 Biennial Report, Page 29 (Apr. 10, 1936))

Cross Reference – subsection 12B-4.002(4), F.A.C.

(11) Conveyances Exempted by United States Code: Conveyances to the United States or its agencies or its instrumentalities when exempted from tax by the United States Code are not taxable. (1931 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 281 (Nov. 9, 1931); 1947 Op. Att’y. Gen. Fla. 047-164 (June 11, 1947))

Cross Reference – paragraph 12B-4.002(2)(a), F.A.C.

(12) Cancellation of Non-Recourse Agreement for Deed: Quit claim deeds from a buyer to a seller for failure to make payments under a contract for deed where the buyer is not entitled to possession until he completes all the payments and has no personal liability upon default, are not subject to tax.

(13) Eminent Domain Proceeding: Judgments and decrees in eminent domain proceedings by which title to real property is vested in a condemner are not subject to documentary stamp tax. Also a deed given to a governmental entity under threat of condemnation or as a part of an out-of-court settlement of condemnation proceedings is not subject to tax.

Cross Reference – subsection 12B-4.013(4), F.A.C.

(14) An assignment, transfer, or other disposition of real property from a nonprofit organization, as defined in Section 201.02(6), F.S., to any state agency, water management district, or local government is exempt from tax. The exempt status of the document must be indicated by affixing the statement that is provided in label format on Form DR-229. (Documentary Stamp Tax – Section 201.02(6), F.S., Exemption, incorporated by reference in Rule 12B-4.003, F.A.C.)

(15) Confirmed Bankruptcy Plan: A document that transfers an interest in Florida real property pursuant to a Chapter 11 plan that was confirmed under Section 1129 of the Bankruptcy Code (Title 11 U.S.C.) prior to the date of the transfer is not taxable. A document that transfers Florida real property prior to confirmation of the bankruptcy plan is subject to tax. (11 U.S.C. Section 1146(a); Florida Department of Revenue v. Piccadilly Cafeterias, Inc. 554 U.S. 33 (2008))

Rulemaking Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History—New 8-18-73, Formerly 12A-4.14, Amended 2-21-77, 12-26-77, 12-23-80, Formerly 12B-4.14, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 1-4-01, 4-14-09, 7-30-13.