

76-901. Tax on grantor; rate.

There is hereby imposed a tax on the grantor executing the deed as defined in section [76-203](#) upon the transfer of a beneficial interest in or legal title to real estate at the rate of two dollars and twenty-five cents for each one thousand dollars value or fraction thereof. For purposes of sections [76-901](#) to [76-908](#), value means (1) in the case of any deed, not a gift, the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed, and (2) in the case of a gift or any deed with nominal consideration or without stated consideration, the current market value of the property transferred. Such tax shall be evidenced by stamps to be attached to the deed. All deeds purporting to transfer legal title or beneficial interest shall be presumed taxable unless it clearly appears on the face of the deed or sufficient documentary proof is presented to the register of deeds that the instrument is exempt under section [76-902](#).

Source:Laws 1965, c. 463, § 1, p. 1472; Laws 1969, c. 618, § 1, p. 2505; Laws 1983, LB 194, § 1; Laws 1985, LB 236, § 1; Laws 1992, LB 1192, § 9; Laws 2005, LB 40, § 6.

76-902. Tax; exemptions.

The tax imposed by section [76-901](#) shall not apply to:

- (1) Deeds recorded prior to November 18, 1965;
- (2) Deeds to property transferred by or to the United States of America, the State of Nebraska, or any of their agencies or political subdivisions;
- (3) Deeds which secure or release a debt or other obligation;
- (4) Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded but which do not extend or limit existing title or interest;
- (5)(a) Deeds between spouses, between ex-spouses for the purpose of conveying any rights to property acquired or held during the marriage, or between parent and child, without actual consideration therefor, and (b) deeds to or from a family corporation, partnership, or limited liability company when all the shares of stock of the corporation or interest in the partnership or limited liability company are owned by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, and their spouses, for no consideration other than the issuance of stock of the corporation or interest in the partnership or limited liability company to such family members or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership or limited liability company. In order to qualify for the exemption for family corporations, partnerships, or limited liability companies, the property shall be transferred in the name of the corporation or partnership and not in the name of the individual shareholders, partners, or members;
- (6) Tax deeds;

(7) Deeds of partition;

(8) Deeds made pursuant to mergers, consolidations, sales, or transfers of the assets of corporations pursuant to plans of merger or consolidation filed with the office of Secretary of State. A copy of such plan filed with the Secretary of State shall be presented to the register of deeds before such exemption is granted;

(9) Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

(10) Cemetery deeds;

(11) Mineral deeds;

(12) Deeds executed pursuant to court decrees;

(13) Land contracts;

(14) Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest;

(15) Deeds of distribution executed by a personal representative conveying to devisees or heirs property passing by testate or intestate succession;

(16) Transfer on death deeds or revocations of transfer on death deeds;

(17) Certified or authenticated death certificates;

(18) Deeds transferring property located within the boundaries of an Indian reservation if the grantor or grantee is a reservation Indian;

(19) Deeds transferring property into a trust if the transfer of the same property would be exempt if the transfer was made directly from the grantor to the beneficiary or beneficiaries under the trust. No such exemption shall be granted unless the register of deeds is presented with a signed statement certifying that the transfer of the property is made under such circumstances as to come within one of the exemptions specified in this section and that evidence supporting the exemption is maintained by the person signing the statement and is available for inspection by the Department of Revenue;

(20) Deeds transferring property from a trustee to a beneficiary of a trust;

(21) Deeds which convey property held in the name of any partnership or limited liability company not subject to subdivision (5) of this section to any partner in the partnership or member of the limited liability company or to his or her spouse;

(22) Leases;

(23) Easements;

(24) Deeds which transfer title from a trustee to a beneficiary pursuant to a power of sale exercised by a trustee under a trust deed; or

(25) Deeds transferring property, without actual consideration therefor, to a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and is not a private foundation as defined in section 509(a) of the Internal Revenue Code.

Source:Laws 1965, c. 463, § 2, p. 1473; Laws 1969, c. 619, § 1, p. 2506; Laws 1969, c. 620, § 1, p. 2507; Laws 1971, LB 825, § 1; Laws 1974, LB 610, § 1; Laws 1978, LB 815, § 1; Laws 1980, LB 650, § 1; Laws 1983, LB 194, § 2; Laws 1984, LB 795, § 1; Laws 1984, LB 1105, § 23; Laws 1991, LB 193, § 1; Laws 1993, LB 121, § 481; Laws 2001, LB 516, § 5; Laws 2012, LB536, § 35; Laws 2013, LB36, § 1; Laws 2014, LB867, § 7.
Operative Date: July 18, 2014

76-903. Design; collection of tax; refund; procedure; disbursement.

The Tax Commissioner shall design such stamps in such denominations as in his or her judgment will be the most advantageous to all persons concerned. When any deed subject to the tax imposed by section [76-901](#) is offered for recordation, the register of deeds shall ascertain and compute the amount of the tax due thereon and shall collect such amount as a prerequisite to acceptance of the deed for recordation. If a dispute arises concerning the taxability of the transfer, the register of deeds shall not record the deed until the disputed tax is paid. If a disputed tax has been paid, the taxpayer may file for a refund pursuant to section [76-908](#). The taxpayer may also seek a declaratory ruling pursuant to rules and regulations adopted and promulgated by the Department of Revenue. From each two dollars and twenty-five cents of tax collected pursuant to section [76-901](#), the register of deeds shall retain fifty cents to be placed in the county general fund and shall remit the balance to the State Treasurer who shall credit ninety-five cents of such amount to the Affordable Housing Trust Fund, twenty-five cents of such amount to the Site and Building Development Fund, twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund, and thirty cents of such amount to the Behavioral Health Services Fund.

Source:Laws 1965, c. 463, § 3, p. 1473; Laws 1969, c. 618, § 2, p. 2505; Laws 1983, LB 194, § 3; Laws 1985, LB 236, § 2; Laws 1992, LB 1192, § 10; Laws 1997, LB 864, § 16; Laws 2001, LB 516, § 6; Laws 2001, Spec. Sess., LB 3, § 5; Laws 2005, LB 40, § 7; Laws 2011, LB388, § 14.

76-904. Deeds; filing without stamps; prohibited; removal of stamps from deed; prohibited.

The register of deeds shall accept no deeds, instruments, or writings for conveyance of any lands, tenements, or other realty sold unless the stamps as are provided for in section [76-901](#) are attached and canceled. The stamps shall not be subsequently removed from the deed.

Source:Laws 1965, c. 463, § 4, p. 1474.

76-905. Register of deeds; recording deed with insufficient tax paid; penalty.

Any register of deeds who shall record any deed upon which a tax is imposed by the provisions of sections [76-901](#) to [76-907](#) without collecting the proper amount of tax as required by the provisions of sections [76-901](#) to [76-907](#) as is indicated in the declaration appended to such deed shall, upon conviction thereof, be fined the sum of fifty dollars.

Source:Laws 1965, c. 463, § 5, p. 1474.

76-906. Rules and regulations.

The Tax Commissioner shall prescribe such rules and regulations as he may deem necessary to carry out the purposes of sections [76-901](#) to [76-907](#).

Source:Laws 1965, c. 463, § 6, p. 1474.

76-907. Sections; operative date.

Sections [76-901](#) to [76-907](#) shall become operative on January 1, 1966, or immediately upon the repeal of the federal stamp act on deeds of conveyance of real estate whichever is later. If the repeal of the stamp tax levied by the federal government is conditional upon the levy of a comparable tax by the state, then sections [76-901](#) to [76-907](#) shall become operative on the first day of the third month following the adoption of such a law by the federal government. The month in which the federal act is adopted shall be counted as the first month in determining the operative date of sections [76-901](#) to [76-907](#).

Source:Laws 1965, c. 463, § 7, p. 1474.

76-908. Documentary stamp tax; refund; procedure.

Any person paying the documentary stamp tax imposed by section [76-901](#) may claim a refund if the payment of such tax was (1) the result of a misunderstanding or honest mistake of the taxpayer, (2) the result of a clerical error on the part of the register of deeds or the taxpayer, or (3) invalid for any reason. Within two years after payment of such tax, the taxpayer shall file in the office of the register of deeds of the county in which the tax was paid a written claim on a form prescribed by the Tax Commissioner and evidence in support thereof, stating the reason for the claim. The register of deeds shall, within thirty days after such filing, make a recommendation of approval or denial and forward the recommendation together with a copy of the claim and evidence filed to the Tax Commissioner. Within thirty days after the forwarding of such recommendation the Tax Commissioner shall, upon consideration of the recommendation of the register of deeds and the claim and evidence filed by the taxpayer, render his or her decision approving or rejecting the claim for a refund in whole or in part. A copy of the decision of the Tax Commissioner shall be mailed to the register of deeds and to the last-known address of the taxpayer within ten days after the decision is rendered. Upon approval by the Tax Commissioner of a refund for all or a portion of the documentary stamp tax paid, the register of deeds is authorized to make such refund from the currently collected documentary stamp tax funds presently in the office of the register of deeds. A taxpayer denied a refund under this section, in whole or in part, may appeal the decision of the Tax Commissioner, and the appeal shall be in accordance with the Administrative Procedure Act.

Source:Laws 1981, LB 179, § 2; Laws 1988, LB 352, § 148; Laws 2012, LB727, § 27.

Cross References

Administrative Procedure Act, see section [84-920](#).