

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: 701—Chapter 109
“Real Estate Transfer Tax and Declarations of Value”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 428A.11
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 428A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 18, 2026
2 to 3 p.m.

Via videoconference call:
meet.google.com/egs-ucjg-frv

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Revenue no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

The purpose of this proposed rulemaking is to rescind and adopt a new Chapter 109. These proposed rules provide an overview of real estate transfer tax and declarations of value, including the responsibilities of county recorders and local assessors relating to those processes. The Department proposes revisions to remove portions of the rules that the Department determined are obsolete, unnecessary, or duplicative of statutory language as required by Executive Order 10. Further, the Department proposes revisions to the chapter to add clarity and better organization to aid the public’s understanding of real estate transfer tax and declarations of value.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• Classes of persons that will bear the costs of the proposed rulemaking:

This proposed rulemaking does not create costs for any classes of persons.

• Classes of persons that will benefit from the proposed rulemaking:

Local governments will benefit from a clearer understanding of how and when to collect and remit real estate transfer tax and of when declarations of values are required to be submitted. Property owners will benefit from a clearer understanding of when they owe real estate transfer tax and when they are required to submit a declaration of value.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- **Quantitative description of impact:**

There is no economic impact associated with this proposed rulemaking beyond what is contained in statute.

- **Qualitative description of impact:**

The qualitative benefits of this proposed rulemaking beyond what is already provided in statute are the value of having a clear understanding of the real estate transfer tax and declarations of value in order to ensure a consistent application of the law across the State and eliminate confusion.

3. Costs to the State:

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs to the State beyond what is already required to administer the relevant statutes.

- **Anticipated effect on State revenues:**

A greater understanding of real estate transfer tax and declarations of value will ensure that the correct amount of property taxes is collected.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost of inaction would be potential confusion about real estate transfer tax and declarations of value, which could lead to an improper amount of tax collected. Additionally, declarations of value are required for the Department's statewide equalization process. There is no cost associated with this proposed rulemaking. This proposed rulemaking will ensure consistent application of the law across the State.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

This proposed rulemaking is not costly or intrusive.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider any alternative methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Failing to have a dedicated chapter on real estate transfer tax and declarations of value would lead to greater confusion about the application of those concepts, which could result in improper application of the law. The rules are proposed to be updated to remove outdated and duplicative language.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

These proposed rules may impact small businesses when the small businesses purchase or sell real property in the State. This proposed rulemaking does not impose any requirements on small businesses aside from what is contained in statute but seeks to ensure that small businesses are only subject to declaration of value requirements if required under the law.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 109 and adopt the following **new** chapter in lieu thereof:

CHAPTER 109
REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

701—109.1(428A) Real estate transfer tax: responsibility of county recorders.

109.1(1) Forms. County recorders shall use only forms provided by the department for the collection of real estate transfer tax and the recording and reporting of such tax collections.

109.1(2) Monthly reports. County recorders shall submit a report to the department on forms prescribed by the department on or before the tenth day of each month enumerating real estate transfer tax collection information for the preceding month.

109.1(3) Evidence of payment. The recorder or authorized employee of the recorder must enter the tax payment amount on the face of the instrument of conveyance presented for recording.

109.1(4) Recording refused. The county recorder shall refuse to record any deed, instrument, or writing regardless of any statement by the grantor, grantee, or their agents that the transaction is exempt pursuant to Iowa Code section 428A.2, if, in the recorder's judgment, additional facts are necessary to clarify the taxable status of the transfer or determine the full consideration paid for the property. The county recorder may request from the grantor, grantee, or their agents any information necessary to determine the taxable status of the transfer or the full amount of consideration involved in the transaction. County recorders shall not record any deed or instrument of conveyance for which the proper amount of real estate transfer tax has not been collected. This applies to the collection of tax in excess of the amount due for the actual amount of consideration as well as situations in which an insufficient amount of tax has been collected.

109.1(5) Refunds or underpayments. County recorders shall not refund any overpayment of a real estate transfer tax. The grantor of the real property for which the real estate transfer tax has been overpaid may petition the state appeal board for a refund of the overpayment amount paid to the treasurer of state. A refund of the remaining portion of the overpayment may be petitioned from the board of supervisors of the county in which the tax was paid. Collection of underpayments shall be made as described in Iowa Code section 428A.8(1)"c."

109.1(6) Multiple parcels. If the real estate conveyance contains multiple parcels and the parcels are located in more than one county, the tax is to be paid to each county in which the property parcels are located based on the consideration paid for each property parcel or proportionate parcel located in each county.

This rule is intended to implement Iowa Code chapter 428A.

701—109.2(428A) Taxable status of real estate transfers.

109.2(1) Transfer of realty to a corporation or partnership. Capital stock, partnership shares, and debt securities received in exchange for real property constitute consideration subject to the real estate transfer tax. Where the value of the capital stock is definite or may be definitely determined in a dollar amount, the specific dollar amount is subject to the tax. Where the value of the capital stock is not definitely measurable in a dollar amount, the tax imposed is to be calculated on the market value of the realty transferred. For purposes of this subrule, "market value" is defined in Iowa Code section 441.21.

109.2(2) Exchanges of real estate. Real estate transfers involving the exchange of one piece of real property for another are transfers subject to the real estate transfer tax. Each grantor of the real

estate is liable for the tax based on the market value of the property received in the exchange as well as other consideration, including but not limited to cash and assumption of debt. For purposes of this subrule, “market value” is defined in Iowa Code section 441.21.

109.2(3) *Conveyance to the United States government or the state of Iowa.* Any conveyance of real estate to the United States or any agency or instrumentality thereof or to the state of Iowa or any agency, instrumentality, or political subdivision thereof not exempt from the real estate transfer tax pursuant to Iowa Code section 428A.2 is subject to the real estate transfer tax. An exception to this subrule is any conveyance to the United States Department of Agriculture, Farmers Home Administration, which is specifically exempted by 7 U.S.C. §1984.

109.2(4) *Conveyance of property on leased land.* The transfer of buildings or other structures located on leased land is subject to the real estate transfer tax. The fact that the person who owns a building or other structure does not own the land upon which the property is located does not exempt this type of conveyance from the real estate transfer tax.

109.2(5) *Mortgage default.* When a defaulting mortgagor issues a deed or other conveyance instrument to the mortgagee as satisfaction of the mortgage debt, the transaction is subject to the real estate transfer tax. The consideration upon which the tax is calculated is the outstanding unsatisfied mortgage debt. However, a conveyance of real property to lienholders in lieu of forfeiture or foreclosure action is exempt from real estate transfer tax.

109.2(6) *Completion of contract.*

a. A deed or other conveyance instrument given at the time of completion of a single real estate contract is subject to the real estate transfer tax. The tax is to be computed on the full amount of the purchase price as stated in the contract and not solely on the last installment payment made prior to the issuance of the deed or other conveyance instrument. If the original contract is assigned to a third party or parties prior to fulfillment of such contract, the tax is to be computed only on the original contract price upon completion of the contract.

b. When a single deed or other conveyance instrument is given at the time of completion of multiple successive real estate contracts, separate taxes are to be computed and paid based upon the full purchase price stated in each contract.

EXAMPLE: If A sells real estate to B on an installment contract, and then B sells the same property to C on another installment contract and subsequently both A and B transfer their respective interests in the property to C via one deed, A is liable for a tax computed on the full purchase price stated in the original contract to which A was a party and B is liable for a tax computed on the full purchase price stated in the subsequent contract to which B was a party.

109.2(7) *Assignments of contract.* Assignments of real estate contracts by contract sellers and contract buyers are not subject to the real estate transfer tax.

109.2(8) *Corporate and partnership dissolution.* A conveyance of realty by a corporation or partnership in liquidation or in dissolution to its shareholders or partners subject to the debts of the corporation or partnership is a conveyance subject to the real estate transfer tax. However, if there are no debts and the conveyance is made solely for the cancellation and retirement of the capital stock or dissolution, the tax does not apply.

109.2(9) *Family debt cancellation exemption.* The family debt cancellation exemption from the real estate transfer tax provided in Iowa Code section 428A.2(11) applies only to real estate conveyances between spouses or parent and child and indebtedness between these parties. The amount of indebtedness subject to exemption shall not exceed the market value of the property being transferred.

EXAMPLE 1: A son is indebted to his father for \$10,000. The debt is secured by real property. The son transfers the real property with a market value of \$12,000 to his father as satisfaction of the indebtedness. No real estate transfer tax is due in this situation.

EXAMPLE 2: A son is indebted to his father for \$10,000. The debt is secured by real property. The son transfers the real property with a market value of \$4,000 to his father as satisfaction of the indebtedness. Real estate transfer tax is due on \$6,000 in this situation.

109.2(10) Assumption of debt. Any outstanding debt on the property conveyed that is not assumed by the grantee is not to be included as consideration in computing the amount of real estate transfer tax due.

EXAMPLE: Property with a mortgage of \$40,000 is transferred from A to B. B pays A \$60,000 but does not assume the \$40,000 mortgage. The real estate transfer tax is to be computed on the \$60,000 cash payment only. If B had assumed the mortgage in addition to making the cash payment, the real estate transfer tax would be computed on \$100,000 (the sum of the payment and mortgage).

109.2(11) Mergers, consolidations, and reorganizations. Conveyances of real estate resulting from corporate or limited liability company mergers, consolidations, or reorganizations are exempt from the real estate transfer tax. For purposes of this rule, the following definitions apply:

“*Consolidation*” means the uniting of two or more corporations or companies into a single new corporation or company, all of the constituent corporations or companies thereby ceasing to exist as separate entities.

“*Merger*” means the uniting of two or more corporations or companies into one corporation or company in such manner that the corporation or company resulting from the merger retains its existence and absorbs the other constituent corporation(s) or company(ies), which thereby lose its or their existence.

“*Reorganization*” means the transfer of substantially all of the assets of one corporation or company to another corporation or company where the persons having an interest in the old corporation or company maintain substantially the same interest in the new corporation or company.

This rule is intended to implement Iowa Code sections 428A.1 and 428A.2.

701—109.3(428A) Declarations of value: responsibility of county recorders and local assessors.

109.3(1) Form and procedures. County recorders and local assessors shall use a real estate transfer—declaration of value form and the procedures prescribed and provided by the director for reporting real estate transfers.

109.3(2) Report of sales. County recorders and local assessors shall complete the appropriate portions of a real estate transfer—declaration of value form for each real estate transfer for which a declaration of value has been completed by the buyer, seller, or agent. The completed real estate transfer—declaration of value form shall be used in preparing the quarterly sales report to be submitted to the department as required by Iowa Code section 421.17(6).

109.3(3) Transmittal of form. A real estate transfer—declaration of value form filed with the county recorder shall be transmitted promptly to the department. Nothing in this subrule shall be construed to relieve, limit, or prohibit local assessors from completing the requirements set forth in Iowa Code section 421.17(6) “a” and “b.”

109.3(4) Completion of form. County recorders and local assessors shall complete a real estate transfer—declaration of value form in accordance with instructions issued by the department. The assessed values entered on the form are to be the final values as of January 1 of the year in which the transfer occurred.

This rule is intended to implement Iowa Code section 428A.1.

701—109.4(428A) Certain transfers of agricultural realty. In determining whether agricultural realty is purchased by a corporation, limited partnership, trust, alien, or nonresident alien for purposes of providing information required for such transfers by Iowa Code section 428A.1, the following definitions apply.

“*Alien*” means a person born out of the United States and unnaturalized under the Constitution and laws of the United States.

“*Corporation*” means a domestic or foreign corporation and includes a nonprofit corporation and cooperatives.

“*Limited partnership*” means a partnership as defined in Iowa Code section 488.102(12) and that owns or leases agricultural land or is engaged in farming.

“Nonresident alien” means an alien as defined in this rule who is not a resident of the state of Iowa.

“Trust” means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. A trust includes a legal entity holding property as a trustee, agent, escrow agent, attorney-in-fact, and in any similar capacity. Trust does not include a person acting in a fiduciary capacity as an executor, administrator, personal representative, guardian, conservator or receiver.

This rule is intended to implement Iowa Code section 428A.1.

701—109.5(428A) Form completion and filing requirements.

109.5(1) *Real estate transfer—declaration of value: real estate transfer tax.* Requirements for completing a real estate transfer—declaration of value form or exceptions from filing the form shall not be construed to alter the liability for the real estate transfer tax or the amount of such tax as provided in Iowa Code chapter 428A.

109.5(2) *Agent defined.* As used in Iowa Code section 428A.1, an agent is defined as any person designated or approved by the buyer or seller to act on behalf of the buyer or seller in the real estate transfer transaction.

109.5(3) *Recording refused.* The county recorder shall refuse to record any document for which a real estate transfer—declaration of value form is required if the form is not completed accurately and completely by the buyer or seller or the agent of either. The real estate transfer—declaration of value form shall include all information required by the director.

109.5(4) *Multiple parcels.* Separate declarations of value are to be submitted to each county recorder if the real estate conveyed consists of parcels located in more than one county. The consideration paid for each property must be separately stated on the declaration of value or the recorder shall refuse to record the instrument of conveyance.

This rule is intended to implement Iowa Code sections 428A.1, 428A.2, and 428A.4.

701—109.6(428A) Public access to declarations of value. Declarations of value are public records and must be made available for public inspection in accordance with Iowa Code chapter 22. However, if a real estate transfer—declaration of value form contains the social security number or federal tax identification number of the buyer or seller, the social security number or the federal tax identification number must be redacted by the government official in possession of the real estate transfer—declaration of value form prior to the form being released to the public.

This rule is intended to implement Iowa Code section 428A.7.