

CHAPTER 428A

REAL ESTATE TRANSFER TAX

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428A.1 Amount of tax on transfers — declaration of value.

There is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state are granted, assigned, transferred, or otherwise conveyed, a tax determined in the following manner: When there is no consideration or when the deed, instrument, or writing is executed and tendered for recording as an instrument corrective of title, and so states, there is no tax. When there is consideration and the actual market value of the real property transferred is in excess of five hundred dollars, the tax is eighty cents for each five hundred dollars or fractional part of five hundred dollars in excess of five hundred dollars. The term “*consideration*”, as used in this chapter, means the full amount of the actual sale price of the real property involved, paid or to be paid, including the amount of an encumbrance or lien on the property, if assumed by the grantee. It is presumed that the sale price so stated includes the value of all personal property transferred as part of the sale unless the dollar value of personal property is stated on the instrument of conveyance. When the dollar value of the personal property included in the sale is so stated, it shall be deducted from the consideration shown on the instrument for the purpose of determining the tax.

When each deed, instrument, or writing by which any real property in this state is granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. However, if the deed, instrument, or writing contains multiple parcels some of which are located in more than one county, separate declarations of value shall be submitted on the parcels located in each county and submitted to the county recorder of that county when paying the tax as provided in section 428A.5. A declaration of value is not required for those instruments described in section 428A.2, subsections 2 to 5, 7 to 13, and 16 to 21, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain.

The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 9H.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. The county recorder shall not record the declaration of value, but shall enter on the declaration of value information the director of revenue requires for the production of the sales/assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value the information the director of revenue requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue, at times as directed by the director of revenue. The assessor shall retain one copy of each declaration of value for three years from December 31 of the year in which the transfer of realty for which the declaration was filed took place. The director of revenue shall, upon receipt of the information required to be filed under this chapter by the city or county assessor, send to the office of the secretary of state

that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 9H.1.

[C66, 71, 73, 75, 77, 79, 81, S81, §428A.1; 81 Acts, ch 141, §1; 82 Acts, ch 1027, §1]

85 Acts, ch 96, §1; 87 Acts, ch 133, §1; 87 Acts, ch 198, §4; 89 Acts, ch 271, §1; 91 Acts, ch 267, §317; 92 Acts, ch 1073, §12; 92 Acts, ch 1212, §35; 96 Acts, ch 1167, §6; 99 Acts, ch 175, §1; 2003 Acts, ch 145, §286

428A.2 Exceptions.

The tax imposed by this chapter shall not apply to:

1. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

2. Any instrument of mortgage, assignment, extension, partial release, or satisfaction thereof.

3. Any will.

4. Any plat.

5. Any lease.

6. Any deed, instrument, or writing in which the United States or any agency or instrumentality thereof or the state of Iowa or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor; and any deed, instrument or writing in which any of such unit of government is the grantee or assignee where there is no consideration.

7. Deeds for cemetery lots.

8. Deeds which secure a debt or other obligation, except those included in the sale of real property.

9. Deeds for the release of a security interest in property excepting those pertaining to the sale of real estate.

10. Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded.

11. Deeds between husband and wife, or parent and child, without actual consideration. A cancellation of indebtedness alone which is secured by the property being transferred and which is not greater than the fair market value of the property being transferred is not actual consideration within the meaning of this subsection.

12. Tax deeds.

13. Deeds of partition where the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest a tax is due on the greater values, computed at the rate set out in section 428A.1.

14. The making or delivering of instruments of transfer resulting from a corporate merger, consolidation, or reorganization or a merger, consolidation, or reorganization of a limited liability company under the laws of the United States or any state thereof, where such instrument states such fact on the face thereof.

15. Deeds between a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company and its stockholders, partners, or members for the purpose of transferring real property in an incorporation or corporate dissolution or the organization or dissolution of a partnership, limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deeds are given for no actual consideration other than for shares or for debt securities of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company. For purposes of this subsection, a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company is a corporation, partnership, limited partnership, limited liability partnership, or limited liability company where the majority of the voting stock of the corporation, or of the ownership shares of the partnership, limited partnership, limited liability partnership, or limited liability company is held by and the majority of the stockholders, partners, or members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary

capacity for persons so related and where all of its stockholders, partners, or members are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons.

16. Deeds for the transfer of property or the transfer of an interest in property when the deed is executed between former spouses pursuant to a decree of dissolution of marriage.

17. Deeds transferring easements.

18. Deeds giving back real property to lienholders in lieu of forfeitures or foreclosures.

19. Deeds executed by public officials in the performance of their official duties.

20. Deeds transferring distributions of assets to heirs at law or devisees under a will.

21. Deeds in which the consideration is five hundred dollars or less.

[C66, 71, 73, 75, 77, 79, 81, §428A.2; 82 Acts, ch 1027, §2 – 4]

87 Acts, ch 198, §5; 89 Acts, ch 271, §2; 91 Acts, ch 191, §25; 95 Acts, ch 175, §1; 96 Acts, ch 1170, §1

428A.3 Who liable for tax.

Any person, firm or corporation who grants, assigns, transfers, or conveys any land, tenement, or realty by a deed, writing, or instrument subject to the tax imposed by this chapter shall be liable for such tax but no public official shall be liable for a tax with respect to any instrument executed by the public official in connection with official duties.

[C66, 71, 73, 75, 77, 79, 81, §428A.3]

428A.4 Recording refused.

1. The county recorder shall refuse to record any deed, instrument, or writing, taxable under section 428A.1 for which payment of the tax determined on the full amount of the consideration in the transaction has not been paid. However, if the deed, instrument, or writing, is exempt under section 428A.2, the county recorder shall not refuse to record the document if there is filed with or endorsed on it a statement signed by either the grantor or grantee or an authorized agent, that the instrument or writing is excepted from the tax under section 428A.2. The validity of an instrument as between the parties, and as to any person who would otherwise be bound by the instrument, is not affected by the failure to comply with this section. If an instrument is accepted for recording or filing contrary to this section the failure to comply does not destroy or impair the record as notice.

2. The county recorder shall refuse to record any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed, except those transfers exempt from tax under section 428A.2, subsections 2 through 5, 7 through 13, and 16 through 21, or under section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, until the declaration of value has been submitted to the county recorder. A declaration of value shall not be required with a deed given in fulfillment of a recorded real estate contract provided the deed has a notation that it is given in fulfillment of a contract.

[C66, 71, 73, 75, 77, 79, 81, §428A.4]

83 Acts, ch 135, §1; 87 Acts, ch 133, §2; 2009 Acts, ch 27, §16

428A.5 Documentation of payment.

The amount of tax imposed by this chapter shall be paid to the county recorder in the county where the real property is located and the amount received shall appear on the face of the document or instrument. The method of documentation of a transfer tax shall be approved by the department of revenue.

[C66, 71, 73, 75, 77, 79, 81, §428A.5]

83 Acts, ch 135, §2; 99 Acts, ch 175, §2; 2001 Acts, ch 44, §19; 2003 Acts, ch 145, §286; 2009 Acts, ch 27, §17

428A.6 Repealed by 83 Acts, ch 135, § 6.

428A.7 Forms provided by director of revenue.

The director of revenue shall prescribe the form of the declaration of value and shall include an appropriate place for the inclusion of special facts and circumstances relating to the actual

sales price in real estate transfers. The director shall provide an adequate number of the declaration of value forms to each county recorder in the state. If the declaration of value form requires or provides for the inclusion of the social security number or federal tax identification number of a seller or buyer, the department shall provide that the social security number or federal tax identification number remains confidential and cannot be obtained by public examination.

[C66, 71, 73, 75, 77, 79, 81, §428A.7]

83 Acts, ch 135, §3; 2003 Acts, ch 145, §286; 2009 Acts, ch 112, §1

428A.8 Remittance to state treasurer — portion retained in county.

1. a. On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state eighty-two and three-fourths percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit and transfer the receipts as provided in subsection 2.

b. The county recorder shall deposit the remaining seventeen and one-fourth percent of the receipts in the county general fund.

c. Any tax or additional tax found to be due shall be collected by the county recorder. If the county recorder is unable to collect the tax, the director of revenue shall collect the tax in the same manner as taxes are collected in chapter 422, division III. If collected by the director of revenue, the director shall pay the county its proportionate share of the tax. Section 422.25, subsections 1, 2, 3, and 4, and sections 422.26, 422.28 through 422.30, and 422.73, consistent with this chapter, apply with respect to the collection of any tax or additional tax found to be due, in the same manner and with the same effect as if the deed, instrument, or writing were an income tax return within the meaning of those statutes.

d. The county recorder shall keep records and make reports with respect to the real estate transfer tax as the director of revenue prescribes.

2. The treasurer of state shall deposit or transfer the receipts paid the treasurer of state pursuant to subsection 1 to either the general fund of the state, the housing trust fund created in section 16.181, or the shelter assistance fund created in section 16.41 as follows:

a. For the fiscal year beginning July 1, 2009, ninety percent of the receipts shall be deposited in the general fund, five percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

b. For the fiscal year beginning July 1, 2010, eighty-five percent of the receipts shall be deposited in the general fund, ten percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

c. For the fiscal year beginning July 1, 2011, eighty percent of the receipts shall be deposited in the general fund, fifteen percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

d. For the fiscal year beginning July 1, 2012, seventy-five percent of the receipts shall be deposited in the general fund, twenty percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

e. For the fiscal year beginning July 1, 2013, seventy percent of the receipts shall be deposited in the general fund, twenty-five percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

f. For the fiscal year beginning July 1, 2014, and each succeeding fiscal year, sixty-five percent of the receipts shall be deposited in the general fund, thirty percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

3. Notwithstanding subsection 2, the amount of money that shall be transferred pursuant to this section to the housing trust fund in any one fiscal year shall not exceed three million dollars. Any money that otherwise would be transferred pursuant to this section to the

housing trust fund in excess of that amount shall be deposited in the general fund of the state.

[C66, 71, 73, 75, 77, 79, 81, §428A.8]

83 Acts, ch 123, §176, 209; 83 Acts, ch 135, §4; 91 Acts, ch 267, §318; 94 Acts, ch 1201, §28; 97 Acts, ch 201, §22; 2001 Acts, ch 150, §18; 2003 Acts, ch 145, §286; 2008 Acts, ch 1179, §56; 2010 Acts, ch 1031, §266

[T] Subsection 2, unnumbered paragraph 1 amended

428A.9 Refund of tax.

To receive a refund from the state the taxpayer shall petition the state appeal board for a refund of the amount of overpayment of the tax paid to the treasurer of state. To receive a refund from the county the taxpayer shall petition the board of supervisors for a refund of the remaining portion of the overpayment paid to that county.

2001 Acts, ch 150, §19

428A.10 Penalty.

Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with this chapter relating to the payment of the real estate transfer tax is guilty of a simple misdemeanor.

[C66, 71, 73, 75, 77, 79, 81, §428A.10]

83 Acts, ch 135, §5

428A.11 Enforcement.

The director of revenue shall enforce the provisions of this chapter and may prescribe rules for their detailed and efficient administration.

[C66, 71, 73, 75, 77, 79, 81, §428A.11]

2003 Acts, ch 145, §286

428A.12 Repealed by 83 Acts, ch 135, § 6.

428A.13 Nonapplicability.

This chapter shall not apply with respect to any deed, instrument, or writing where such deed, instrument, or writing may not under the Constitution of this state or under the Constitution or laws of the United States be made the subject of taxation by this state.

[C66, 71, 73, 75, 77, 79, 81, §428A.13]

428A.14 Repealed by 86 Acts, ch 1241, § 48, 51.

428A.15 Penal provisions.

Any person who willfully enters false information on the declaration of value shall be guilty of a simple misdemeanor.

[C79, 81, §428A.15]