

Section I

Documentary Stamp Tax

BASIC PROVISIONS AND TAX BASE OF THE NEBRASKA TAX LAWS

The documentary stamp tax is a tax imposed on the grantor executing a deed for the privilege of transferring beneficial interest in or legal title to real estate. Effective July 1, 2005 the rate of tax increased from \$1.75 to \$2.25 for each one thousand dollars value or fraction thereof, of the real estate transferred. All deeds are presumed taxable unless it clearly appears on the face of the deed or sufficient documented proof is presented to the register of deeds that the instrument is exempt under section 76-902.

From each \$2.25 of the 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 Nebraska Department of Revenue. Twenty-five cents of the remaining \$1.75 is credited to the Homeless Shelter Assistance Fund, \$1.20 is credited to the Affordable Housing Trust Fund, and thirty cents is credited to the Behavioral Health Services Fund.

For tax year 2005, there were a total of 89,316 transactions (59,425 taxable and 29,891 nontaxable). Total collections for tax year 2005 were \$16,697,857. From this total \$4,170,248 was retained by the counties and \$12,527,609 was credited to the above mentioned funds.

DOCUMENTARY STAMP TAX

Statutory Reference and Description	Estimated Tax Expenditure Cost NA = Not Available
EXEMPTIONS	
76-902(1) Deeds recorded prior to November 18, 1965.	NA
76-902(2) Deeds to property transferred by or to the United States of America, the state of Nebraska or any of their instrumentalities, agencies, or subdivisions.	NA
76-902(3) Deeds which secure or release a debt or other obligation.	NA
76-902(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.	NA
76-902(5) Deeds between husband and wife, or parent and child, without actual consideration therefor, and deeds to or from a family corporation or partnership when all the shares of stock of the corporation or interest in the partnership 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 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. In order to qualify for the exemption for family corporations or partnerships, the property must be transferred in the name of the corporation or partnership and not in the name of the individual shareholders or partners.	NA
76-902(6) Tax Deeds.	NA

76-902(7) Deeds of partition.	NA
76-902(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 shall be granted.	NA
76-902(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.	NA
76-902(10) Cemetery deeds.	NA
76-902(11) Mineral deeds.	NA
76-902(12) Deeds executed pursuant to court decrees.	NA
76-902(13) Land contracts.	NA
76-902(14) Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest.	NA
76-902(15) Deeds of distribution executed by a personal representative conveying to devisees or heirs property passing by testate or intestate succession.	NA
76-902(16) Deeds transferring property located within the boundaries of a Native American Indian reservation where the grantor or grantee is a reservation Native American Indian.	NA
76-902(17) Deeds transferring property into a trust where 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.	NA
76-902(18) Deeds transferring property from a trustee to a beneficiary of a trust.	NA
76-902(19) Deeds which convey property held in the name of any partnership not subject to subdivision (5) of this section to any partner in the partnership or his or her spouse.	NA
76-902(20) Leases; or	NA
76-902(21) Easements.	NA

RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations.