

CHAPTER 12B-4 DOCUMENTARY STAMP TAX

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PART I ADMINISTRATION

12B-4.001 Payment of Tax.

(1) County Comptroller or Clerk of the Circuit Court.

(a) County Comptroller or Clerk of the Circuit Court – Each County Comptroller, or if there is none, then Clerk of the Circuit Court of each county, hereinafter referred to as Clerk of the Court, shall collect the tax imposed by Chapter 201, F.S., on recorded documents, and may collect the tax on unrecorded documents, keeping a journal indicating the amount of tax paid. Clerks of the Court that elect to collect the tax on unrecorded documents shall meet the requirements of paragraph (b). All taxes collected on behalf of the state and associated information shall be electronically submitted to the Department, as provided in Section 213.13, F.S., and Rule Chapter 12-28, F.A.C. There shall be no collection allowance allowed to the Clerk of the Court when the tax is collected and not remitted in accordance with these rules.

(b) A notation is required on each document recorded or unrecorded by the Clerk of the Court that indicates the amount of tax paid and the county where payment is being made. The notation may be signed, initialed, or stamped with the name or initials of the Clerk of the Court, or designated agent thereof.

(2) Registered Persons – Unrecorded Documents.

(a) Any person who has averaged or will average at least 5 taxable transactions per month is required to register with the Department and remit the taxes due directly to the Department for all documents not to be recorded. Any person with less than 5 transactions per month has the option, but is not required, to register with the Department. The procedures provided in this subsection do not apply to documents that are to be recorded with the Clerk of the Court.

(b) A separate registration application is required for each location where taxable documents that are not recorded with the Clerk of the Court are maintained.

(c) Registration with the Department for the purposes of the documentary stamp tax is available by using one of the following methods:

1. Registering through the Department’s Internet site at the address shown in the parentheses (www.myflorida.com/dor) using the Department’s “e-Services.”

2. Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the registration application.

(d) Each application submitted to the Department must contain sufficient information to facilitate the processing of the application.

(e) Any person registered with the Department for documentary stamp tax purposes is required to file a Documentary Stamp Tax Return for Registered Taxpayers (form DR-225B, incorporated by reference in Rule 12B-4.003, F.A.C.) and remit the tax due.

(f) Any person registered shall keep a journal, or other account book or record of original entry, maintaining a listing of all unrecorded documents executed and delivered. The journal shall show a daily listing of each document, indicating every document transaction, the amount, and whether the document is taxable. When the document is taxable, the amount of tax due shall be indicated for each document. When the document is not taxable, the journal must indicate the reason for the exemption.

(g) The following notation or similar language, along with the amount of tax and the certificate of registration number, is required to be made on each document requiring tax under this procedure: “Florida documentary stamp tax required by law in the amount of \$__ has been paid or will be paid directly to the Department of Revenue. Certificate of Registration No. __.” For persons filing returns who have less than five taxable transactions per month and have opted not to register, no registration number is required on such documents.

(3) Unregistered Persons.

(a) Any person engaged in an average of less than 5 taxable transactions per month is not required to register with the Department, but may elect to register to report documentary stamp tax due.

(b) Any person who is not required to register and has not elected to register is required to file a Documentary Stamp Tax Return For Nonregistered Taxpayers’ Unrecorded Documents (form DR-228, incorporated by reference in Rule 12B-4.003, F.A.C.) and remit tax due.

(4) Payment and Return Due Dates.

(a) For monthly filers, payments for documentary stamp tax and the associated return certifying the amount of tax due for the preceding month must either reach the Department or be postmarked on or before the 20th day of the month following the transaction to avoid penalty and interest for late filing. When the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied with returns will be accepted as timely if postmarked on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a “legal holiday” means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the Internal Revenue Code of 1986, as amended. A “legal holiday” pursuant to Section 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to Section 201.133(8), F.S., the tax and associated return is due no later than the 20th day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

(5) Procedures to Follow in Closing Out Alternate Procedure Stamp Accounts of Clerks:

(a) The Clerk’s receipts will be reconciled with remittances of tax to the Department.

(b) The Clerk’s receipts will be reconciled with tax affixed to recorded documents.

(c) The amount of tax due, less the collection allowance, will be collected from the Clerk by the Department.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 116.01, 201.01, 201.08, 201.09, 201.11, 201.12, 201.13, 201.132, 201.133, 201.14, 213.756, 219.07 FS. History—Revised 8-18-73, Formerly 12A-4.01, Amended 2-21-77, 12-3-81, Formerly 12B-4.01, Amended 12-5-89, 2-16-93, 12-30-97, 5-4-03.

12B-4.002 Liability for Tax.

(1)(a) Liability in general – Except as otherwise provided in paragraphs (2) and (3) of this rule, the tax is payable by any of the parties to a taxable transaction. The parties to the transaction may agree among themselves as to who shall pay the tax, but such agreements do not relieve the others from their liability in the event the agreement is not followed.

(b) Taxability of Instrument – The taxability of an instrument, as well as amount of the tax, is determined by form and face of the instrument and cannot be affected by proof of extrinsic facts. (Lee v. Kenan, 78 F.2d 425 (5th Cir. 1935); 100 ALR 869)

(c) Cooperative Apartment – Only the purchaser is liable for the payment of the tax.

(2) United States, Its Agencies or Instrumentalities

(a) Transactions between non-exempt parties and the United States, its agencies or instrumentalities are taxable unless such transactions are evidenced by documents which have been exempted by Congress.

(b) Mortgages and notes executed by non-exempt parties to instrumentalities of the federal government, which include, but are not limited to the following agencies are subject to the tax:

Administrator of Veterans Affairs;

Central Bank for Cooperatives;

Columbia Bank for Cooperatives;

Farmers Home Corporation;

Federal Housing Commissioner;

Federal Intermediate Credit Bank;

Federal Production Credit Association;

Federal Savings and Loan Associations;

Production Credit Corporation;

Production Credit Corporation of Columbia;

Rural Electrification Administration;

Small Business Administration.

(c) Mortgages and notes between non-exempt parties and agencies or instrumentalities of the federal government, including, but not limited to, the following agencies are exempt by Congress and, therefore, are not taxable: (However, an instrument which is guaranteed or insured by one of the following agencies or instrumentalities is subject to tax.)

1. Agricultural Credit Association;

2. Farmers Home Administration; also includes deeds to the Farmers Home Administration (Name changed to: Rural Development/Rural Housing Services);

3. Federal National Mortgage Association (FNMA);

4. Government National Mortgage Association (GNMA);

5. Neighborhood Reinvestment Corporation;

6. Reconstruction Finance Corporation.

(3) State, Counties, and Municipalities.

(a) The state, county, municipality, or any political subdivision thereof is not liable for the tax with respect to a document transferring any interest in realty to which it is a party. However, the transaction is not exempt from tax, and the non-exempt party to the transaction is liable for the tax. The affixing of stamp tax to an instrument by the state, county, municipality, or a political subdivision thereof does not constitute payment of the tax, and the non-exempt party remains liable for the tax in such case.

Cross Reference – subsection 12B-4.014(13), F.A.C.

(b) Written obligations to pay money issued by the state, counties, municipalities or any political subdivision of the state are exempt.

Cross Reference – subsection 12B-4.054(24), F.A.C.

(4) Instruments Between Governmental Agencies:

(a) Instruments between federal or state governments or their instrumentalities, all being governmental agencies, are exempt from tax.

Cross Reference – subsection 12B-4.014(10), F.A.C.

(b) A conveyance by a master in chancery, sheriff or clerk of circuit court for realty sold under foreclosure, execution or court judgment to an agent of the federal government who is the mortgagee is not taxable unless there are excess funds received from the sale from which the tax may be paid.

Cross Reference – subsection 12B-4.013(3), F.A.C.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02, 201.08, 201.24 FS. History—Revised 8-18-73, Formerly 12A-4.02, Amended 3-13-79, 11-29-79, 12-3-81, Formerly 12B-4.02, Amended 12-5-89, 2-13-91, 12-30-97.

12B-4.003 Public Use Forms.

(1) The following public-use forms and instructions are employed by the Department of Revenue in its administration of the documentary stamp tax, and are hereby incorporated in this rule by reference. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850) 922-2208; or, 3) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 4) calling the Forms Request Line during regular office hours at (800) 352-3671 (in Florida only) or (850) 488-6800; or, 5) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331.

Form Number	Title	Effective Date
(2) DR-219	Return for Transfers of Interest in Real Property (R. 07/98)	05/03
(3) DR-225	Documentary Stamp Tax Return for Registered Taxpayers' Unrecorded Documents (R. 12/04)	06/05
(4) DR-228	Documentary Stamp Tax Return for Nonregistered Taxpayers' Unrecorded Documents (R. 12/04)	06/05

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.022, 201.133 FS. History—Revised 8-18-73, Formerly 12A-4.03, Amended 9-26-77, 12-11-78, Formerly 12B-4.03, Amended 12-5-89, 2-16-93, 10-20-93, 12-30-97, 5-4-03, 6-28-05.

12B-4.004 Refunds.

(1) Any person who has overpaid documentary stamp tax or discretionary surtax may seek a refund by filing an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

(a) Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

(b) Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(2) When an application for refund of taxes paid is made by a person other than the maker of the document or instrument, the applicant must provide documentation that the tax was paid by the applicant. (Attorney General Opinion 065-76, July 22, 1965, 1965-66 Biennial Report, Page 105)

Specific Authority 201.11, 213.06(1) FS. Law Implemented 95.091, 213.255, 215.26 FS. History—Revised 8-18-73, Formerly 12A-4.04, Amended 12-26-77, Formerly 12B-4.04, Amended 12-30-97, 5-4-03.

12B-4.005 Penalties and Interest.

(1) Failure to Pay Tax Required:

(a) Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, shall be guilty of a misdemeanor and upon conviction shall be punished accordingly.

(b) Any document, instrument, or paper upon which the tax under this chapter is imposed and which, upon audit or at time of recordation, does not evidence the proper amount of tax paid shall subject the person or persons liable for the tax upon the document, instrument or paper to:

1. Payment of tax not paid;

2. Effective January 1, 1993, payment of penalty to the Department shall increase from 25 percent to 50 percent of the tax not paid. Effective April 1, 1997, the penalty shall be imposed at a rate of 10 percent per month, or fraction thereof, of the unpaid tax, not to exceed 50 percent. The penalty for failing to file a timely return shall not be less than ten dollars. However, the Department shall compromise the penalty if the Department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. Any remaining penalty is subject to the compromise and settlement authority provided in Chapter 12-13, F.A.C. In making a determination whether the penalty should be reduced, the Department shall be guided by such criteria as whether administrative rules exist regarding analogous transactions and whether there are court decisions or opinions of the Attorney General which are relevant to the taxability of the document. A taxpayer's good faith belief that the document was not taxable does not, of itself, authorize a reduction in the penalty. If any part of the deficiency is due to fraud, a penalty of 200 percent of the deficiency shall be imposed;

(2)(a) Payment of interest shall be at the following rate:

1. One percent per month (prorated daily using the daily factor of.000328767) for payments due prior to January 1, 2000.

2. For payments due on or after January 1, 2000, the rate of interest established pursuant to Section 213.235, F.S., and Rule 12-3.0015, F.A.C., prorated daily.

(b) Interest accrues based upon the amount of the tax not paid from the date the tax is due until the tax is paid.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.11, 201.12, 201.17, 201.20, 213.21, 213.235 FS. History—Revised 8-18-73, Formerly 12A-4.05, Amended 2-21-77, 4-2-78, 10-18-78, 12-30-82, Formerly 12B-4.05, Amended 12-5-89, 2-16-93, 10-20-93, 12-30-97, 4-2-00.

12B-4.006 Excise Tax on Documents; Construction.

(1) Florida Documentary Stamp Act, being similar to the Federal Act, takes the same construction in Florida courts as is given the Federal Act in the Federal courts. (State v. Cook, 108 Fla. 157, 146 So. 223 (1933); Gay v. Inter-County Tel. & Tel. Co., 60 So. 2d 22 (Fla. 1952))

(2) All sections of the Documentary Stamp Tax Law must be construed together in order to arrive at intent of legislature. (Gay v. Inter-County Tel. & Tel. Co., 60 So. 2d 22 (Fla. 1952))

(3) Chapter 201, F.S., which levies and imposes excise tax on documents and contains penal provisions must be strictly construed and all doubts or ambiguities resolved in favor of taxpayer. (State v. Cook, 108 Fla. 157, 146 So. 223 (1933); Metropolis Pub. Co. v. Lee, 126 Fla. 107, 170 So. 442 (1936); Lee v. Quincy State Bank, 127 Fla. 765, 173 So. 909 (1937))

(4) Tax on promissory notes and each renewal thereof is on a written or printed obligation covered by statute, and to be “note” or “obligation” within statute; it must be signed by maker or other obligor. (Lee v. Quincy State Bank, 127 Fla. 765, 173 So. 909 (1937))

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201 FS. History—Revised 8-18-73, Formerly 12A-4.06, 12B-4.06, Amended 12-5-89, 12-30-97.

12B-4.007 Recordation of Documents.

The following information pertains to the recordation of documents requiring tax under Chapter 201, F.S.

(1) All instruments should be examined by the clerk, or his deputy before recording.

(2) All instruments shall be properly taxed prior to recordation.

(3) In order to protect his rights, it shall be the duty of the owner and holder of the deed, mortgage, or other document, within the recording laws of this State, to see to it that proper amount of stamp taxes are attached thereto prior to recording.

(4) The duty of a Clerk of a Circuit Court to see to it that proper stamp taxes are paid prior to a recording of the document is an incidental and not a primary duty; his failure to require the proper amount of stamp taxes prior to recording will in no way protect the owner or holder of the document against the effects of a failure to pay the proper tax thereon.

(5) In order to avoid a controversy at a later date as to the consideration upon which the tax was paid, the clerk may, at the time of recording, make a notation on the margin of the instrument as to the consideration. (1961 Op. Att’y. Gen. Fla. 061-188 (Dec. 8, 1961))

(6) Form DR-219: As a condition precedent to recording a deed or other instrument transferring an interest in Florida real property, the grantor or the grantee or his authorized agent shall complete and file with the Clerk of the Circuit Court in the county where the property is located a return, form DR-219. The return shall state the full consideration for the transfer as well as the parcel identification number. If the Return for Transfers of Interest in Florida Real Property (Form DR-219) required under Section 201.022, F.S., is not properly executed and filed by the taxpayer, the Clerk must execute and file the return with the Department. Chapter 201, F.S., allows authorized agents to take as a collection allowance one-half of one percent (0.5%) of the tax collected by them. Clerks of Circuit Court are allowed an additional compensation, for the cost of processing the DR-219 forms, of one percent (1%) of the tax paid for all deeds. The Clerk shall deduct this amount from the amount of the tax due and remitted by the Clerk in the manner permitted by the Department. No deduction or allowance of one percent (1%) for the processing of DR-219 forms shall be granted when there is a manifest failure to maintain proper records or make proper reports. These collection allowances shall be taken at the time the tax collected is remitted to the state. The original of the DR-219 return shall be forwarded by the Clerk of the Circuit Court to the Department of Revenue, with a copy forwarded to the County Property Appraiser in the county where the property is located. The return may not be computer-generated except by prior permission of the Department. The return shall be confidential as provided by Section 193.074, F.S.

Specific Authority 201.11(1), 213.06(1) FS. Law Implemented 201.01, 201.022, 201.12 FS. History—Revised 8-18-73, Formerly 12A-4.07, 12B-4.07, Amended 12-29-86, 12-5-89, 2-16-93, 12-30-97.

PART II DEEDS - DOCUMENTARY STAMP TAX AND SURTAX

12B-4.011 Imposition of Tax.

(1) Scope of Tax: Section 201.02, F.S., imposes a tax on deeds, instruments, or writings, whereby any lands, tenements, or other realty, or any interests therein is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person by his direction. The tax attaches at the time the deed or other instrument of conveyance is delivered, irrespective of the time when the sale is made. Deeds deposited in escrow become subject to the tax upon delivery to the grantee.

(2) Taxable Conveyances: Tax must be paid on all taxable conveyances regardless of where the document may be made, executed, or delivered. (1932 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 979 (May 20, 1932))

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.02 FS. History—Revised 8-18-73, Formerly 12A-4.11, Amended 11-29-79, Formerly 12B-4.11, Amended 12-5-89, 12-30-97.

12B-4.012 Rate, Consideration.

(1) Documentary Stamps; Rate, Computation: Effective August 1, 1992, the tax under Section 201.02, F.S., on deeds, instruments, documents, or writings whereby any lands, tenements, or other realty or any interest therein is transferred or conveyed is 70 cents on each \$100 or fractional part thereof of the consideration paid, or to be paid. When the full amount of the consideration is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 70 cents on each \$100 or fractional part thereof of the consideration therefor. The 70 cent rate applies except for any county that has implemented the provisions of Section 201.031, F.S. As of August 1, 1992, this would apply only to Dade County, where the rate of 60 cents applies.

(2) Definitions:

(a) "Consideration" under Section 201.02, F.S., includes, but shall not be limited to, money paid or to be paid, the amount of any indebtedness discharged by a transfer of any interest in real property, mortgage indebtedness and other encumbrances which the real property interest being transferred is subject to, notwithstanding the transferee may be liable for such indebtedness. Where property other than money is exchanged for interests in real property, there is the presumption that the consideration is equal to the fair market value of the real property interest being transferred.

(b) "Property other than money" includes, but shall not be limited to, property that is corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate.

(3) Discretionary Surtax, Rate and Computation: Certain charter counties, as defined in Section 125.011, F.S., are authorized to levy a surtax pursuant to Section 201.031, F.S., on the same documents taxed under Section 201.02, F.S. The rate of tax shall not exceed 45 cents for each \$100 or fractional part thereof of the consideration paid or to be paid. However, a document conveying only a single family residence, which shall include a condominium unit, or a cooperative apartment unit representing a proprietary interest in a corporation owning a fee or leasehold interest initially in excess of 98 years, or a detached dwelling is not taxable. Where a document conveys more than one single-family residence the tax is due.

(4) Consideration – Surtax: The term "consideration" under Section 201.031, F.S., includes but is not limited to those terms in subsection (2) of this section.

(5) Interest: Even though the parties to the transaction term the total of annual payments as the "total consideration" for the conveyance or transfer, it is only the total of the principal amounts that is liable for the documentary stamp tax under Section 201.02, F.S., and the amounts set forth as interest are exempt from such tax. (1971 Op. Att'y. Gen. Fla. 071-30 (Feb. 19, 1971)) The same rule is applicable to the surtax levied under Section 201.031, F.S.

(6) Minimum Tax: The minimum tax is required on all conveyances where a nominal consideration such as "ten dollars and other valuable considerations, etc.", is cited in the document even though such statement may be impeached by competent evidence. (1931 Op. Att'y. Gen. Fla. 1931-32 Biennial Report, Page 855 (Nov. 30, 1931); Letter from Att'y. Gen. Fla. to State Comptroller (Dec. 10, 1962))

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02, 201.031 FS. History—Revised 8-18-73, Formerly 12A-4.12, Amended 2-21-77, 8-8-78, 11-29-79, 12-30-82, Formerly 12B-4.12, Amended 12-5-89, 2-13-91, 2-16-93, 12-30-97.

12B-4.013 Conveyances Subject to Tax.

(1) Exchange of Property: In an exchange of real property by the respective owners of the property exchanged, lands are given as consideration for the transfer of other lands between the parties. The consideration has a reasonably determinable value, (*DeVore v. Gay*, 39 So. 2d 796 (Fla. 1949)) and is property other than money. The consideration for each deed is the fair market value of the property transferred up by the transferor plus any other consideration given.

(2) Defaulting Mortgagor: Where a mortgagor, in full or partial satisfaction of the mortgage indebtedness or in lieu of foreclosure of a mortgage, conveys the mortgaged premises to the mortgagee, documentary stamp taxes are due on the transaction. The tax will be due on the unpaid portion of any mortgages or other encumbrances the property is subject to, plus any other consideration as defined in Section 201.02(1), F.S., including accrued interest.

(3)(a) Clerk of the Court, Master, Sheriff. A Conveyance by a master in chancery, a sheriff, or a clerk of the court for realty sold under foreclosure or execution is subject to tax. The tax is computed on the amount of the highest and best bid received for the property at the foreclosure sale. The Clerk of the Court is required to collect the tax from the highest bidder when the Certificate of Title is recorded.

(b) The documentary stamp taxes cannot reduce the claim of the mortgagee when the mortgagee is an agent of the federal government. The mortgagor is liable for the payment of the tax from any funds paid to the mortgagor after the payment of prior claims of, or in connection with the foreclosure. (1960 Op. Att'y. Gen. Fla. 060-125 (July 29, 1960))

Cross Reference – subsection (6) of Rule 12B-4.013, F.A.C.

(4) Eminent Domain Proceedings, Threat of: Conveyances of realty made to a governmental entity under threat of condemnation or as part of an out-of-court settlement of condemnation proceedings are not subject to documentary stamp tax. Threat of condemnation exists when a property owner is informed in writing by a representative of a governmental body or public

official authorized to acquire property for public use, that such body or official has decided to acquire the property and the property owner has reasonable grounds to believe that the necessary steps to condemn the property will be instituted if a voluntary sale is not arranged. Conveyances to nongovernmental entities are subject to tax.

Cross-Reference – subsection 12B-4.014(13), F.A.C.

(5) State, County, Municipality: Conveyance to or by the state, a county, a municipality or other public agency to or by a non-exempt party is subject to tax. The state, county, municipality or other public agency is exempt from payment of tax but the non-exempt party is not exempt. (1936 Op. Att’y. Gen. Fla. 1935-36 Biennial Report, Page 29 (April 10, 1936); 1962 Op. Att’y. Gen. Fla. 062-150 (Nov. 8, 1962); 1968 Op. Att’y. Gen. Fla. 068-10 (Jan. 19, 1968); 1971 Op. Att’y. Gen. Fla. 071-100 (May 12, 1971))

Cross Reference – subsection 12B-4.002(3), F.A.C.

(6) United States, Its Agencies or Instrumentalities: Conveyance to the United States, its agencies or instrumentalities from non-exempt party, except as provided in subsection 12A-4.014(11), F.A.C., is subject to tax. (1960 Op. Att’y. Gen. Fla. 060-125 (July 29, 1960); 1961 Op. Att’y. Gen. Fla. 061-84 (May 19, 1961); 1961 Op. Att’y. Gen. Fla. 061-122 (Aug. 1, 1961); 1965 Op. Att’y. Gen. Fla. 065-59 (July 15, 1965); 1971 Op. Att’y. Gen. Fla. 071-100 (May 12, 1971))

(7) Corporation: A conveyance of realty to a corporation in exchange for shares of its capital stock, or as a contribution to the capital of a corporation, is subject to tax. There is a presumption that the consideration is equal to the fair market value of the real property interest being transferred.

(8) Corporation Dividends, Dissolution, Liquidation: A conveyance of real property by a corporation to its stockholders in lieu of a cash or stock dividend, or for the surrender or retirement of the corporate stock, is taxable. There is the presumption that the consideration is equal to the fair market value of the real property interest being transferred.

(9) Timber, Oil, Gas, and Mineral – Contracts or Assignments: Contracts, agreements, leases, and other documents conveying any interest in standing timber, pine stumps, oil or gas leases and assignments or conveyances of oil, gas, mineral rights or royalty interests affecting lands in this state are subject to tax. (1945 Op. Att’y. Gen. Fla. 045-328 (Oct. 19, 1945); 1950 Op. Att’y. Gen. Fla. 050-140 (Mar. 22, 1950); 1962 Op. Att’y. Gen. Fla. 062-114 (Aug. 29, 1962); 1971 Op. Att’y. Gen. Fla. 071-30 (Feb. 19, 1971))

(10) Partnerships: A conveyance of real property by a partner in exchange for an interest in a partnership, or where the value of the partner’s interest in the partnership is increased by the conveyance, is taxable. There is the presumption that the consideration is equal to the fair market value of the real property interest being transferred. This presumption for consideration is also applicable for transfers of real property from a partnership to a partner, except as otherwise provided in Section 201.02(5), F.S.

(11) Cooperative Units: Instruments by which the right is granted to a tenant-stockholder to occupy a unit owned by a cooperative corporation are subject to tax.

Cross Reference – subsection 12B-4.011(2), F.A.C.

(12) Condominium Units: Instruments conveying interest or ownership in a condominium unit are subject to tax.

(13) Cemetery Lots, Interment Rights, Sepulcher Rights: Documents conveying cemetery lots, interment rights, sepulcher rights or any other interest in realty are subject to tax. (1932 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 1000 (June 11, 1932); 1970 Op. Att’y. Gen. Fla. 070-169 (Dec. 4, 1970))

(14) Easements: Easements constitute transfers of interest in realty are subject to tax. (Letter from Att’y. Gen. Fla. to State Comptroller (April 15, 1932))

(15) Banks: Conveyances executed to or by State or National banks are subject to tax.

(16) Savings and Loan Associations: Conveyances executed to or by savings and loan associations are subject to tax.

(17) Agreement or Contract for Deed: Consideration for the conveyance of an equitable interest in real property pursuant to an agreement or contract for deed includes the amount of any payments made and the unpaid balance of the agreement or contract. Tax is therefore calculated on the full contract price and tax shall be paid on the contract when made. No stamp tax is due on the recorded deed made when the proper amount of taxes have been paid on the contract. The deed shall indicate, by notation on the contract, that the proper amount of stamp tax has been paid. The agreement may also be subject to tax under Section 201.08, F.S. (1959 Op. Att’y. Gen. Fla. 059-244 rev. (Feb. 25, 1960); 1970 Op. Att’y. Gen. Fla. 070-171 (Dec. 8, 1970))

(18) Cancellation of Contract or Agreement for Deed: A conveyance of the purchaser’s interest to the seller in satisfaction of the purchaser’s obligation under a contract or agreement for deed where the indebtedness of the purchaser is canceled or otherwise rendered unenforceable is subject to tax. The measure of the tax payable is determined by the amount of the indebtedness canceled or otherwise rendered unenforceable and any other consideration given by the seller. (1960 Op. Att’y. Gen. Fla. 060-165 (Oct. 11, 1960))

Cross Reference – subsection 12B-4.014(12), F.A.C.

(19) Assignment of Contract for Deed: The assignment of a prior purchaser’s interest under a contract or agreement for deed to a new purchaser is a conveyance of an equitable interest which the prior purchaser had in the real property. Consideration for the transfer includes the amount paid by the new purchaser and the unpaid balance of the contract for deed. Tax is due based on the total consideration. No stamp tax is due on the recorded deed when the proper amount of tax has been paid on the assignment. The deed shall indicate by notation that proper stamp tax has been paid. Tax is also due under Section 201.08, F.S., if the remaining balance of the contract is assumed by the new purchaser. (1959 Op. Att’y. Gen. Fla. 059-244 Rev. (Feb. 25, 1960); Department of Revenue v. Mesmer, 345 So. 2d 384 (Fla. 1st DCA 1977)).

(20) Industrial Development Authority and Florida Housing Finance Corporation: Conveyances of realty by industrial development authorities and the Florida Housing Finance Corporation to private corporations are taxable. Cross Reference – subsection 12B-4.054(26), F.A.C.

(21) Gift Transactions; Mortgage on Property: A gift of mortgaged realty is taxable based upon the unpaid balance of the mortgage at the time of transfer.

(22) Transfer in Bankruptcy: Sale of real property by trustees, debtors, or receivers in federal bankruptcy proceedings is subject to tax unless the transfer is made pursuant to a plan confirmed under Section 1129 of the Bankruptcy Code, is a precondition or is essential to the confirmation of the plan, or is necessary to consummate or implement a confirmed plan. The debtor must be a party to the transfer. If the bankruptcy court does not ultimately confirm the plan under 11 U.S.C. Section 1129, the transfer would not be exempt pursuant to 11 U.S.C. Section 1146(c), and would be subject to tax. (1932 Op. Att’y. Gen. Fla. 1931 Biennial Report, Page 1039 (Sept. 14, 1932)) (11 U.S.C. Section 1146(c); In re Jacoby-Bender, Inc., 758 F.2d 840 (2d Cir. 1985); In re Smoss Enterprises Corp., 54 Bankr. 950 (E.D.N.Y. 1985))
Cross Reference – subsections 12B-4.014(15), 12B-4.054(30), F.A.C.

(23) Combined Sale of Land and Improvements: Where conveyance of realty is made by a corporation or person engaged in the business of land sales and construction of buildings and other improvements, stamp tax is imposed on the conveyance based on the amount of consideration paid or to be paid upon delivery of the deed to the purchaser. If the deed is not delivered to the purchaser until construction is completed, stamp tax is required on the total consideration paid for the land and improvements, regardless of the date of recordation. However, proper stamp tax shall be paid when the deed is recorded.

(24) “Wrap-Around” Mortgages: Where a “wrap-around” mortgage is given to secure the unpaid balance of the purchase price for the transfer of realty, documentary stamp tax is to be paid on the total consideration which shall include the amount of any “wrap-around” mortgage. (Department of Revenue v. Brookwood Associates, Limited, 324 So. 2d 184 (Fla. 1st DCA 1975))

(25) Mortgage on Property: When computing the tax under Section 201.02, F.S., on a deed of conveyance, the total consideration includes any mortgages encumbering the property being transferred.
Cross Reference – subsections 12B-4.013(7), (8), (10) and (31), F.A.C.

(26) Mobile Homes: A mobile home which has been permanently affixed to land and taxed as real property is issued an “RP” series license plate by the appropriate county tax collector. Tax applies to the sale of mobile homes in the following manner:

(a) When a mobile home is affixed to realty, bears an “RP” license tag and is sold in conjunction with the sale of realty as a package deal, the transaction constitutes the transfer of an interest in real property and is taxable under Chapter 201, F.S., and the instrument by which the interest in real property is transferred must evidence payment of documentary stamp tax and surtax levied under Chapter 201, F.S., based upon the consideration paid.

(b) When a mobile home is affixed to realty and bears an “MH” tag or is untagged, the sale of the mobile home does not constitute the transfer of an interest in real property even though the land is sold in conjunction with the mobile home. However, the land which is sold in conjunction with the sale of the mobile home is taxable under Chapter 201, F.S., based upon the fair market value of the land conveyed and the instrument by which the interest in the real property is conveyed must evidence payment of documentary stamp tax and surtax levied under Chapter 201, F.S., based upon the consideration paid.

(c) Where members of a mobile home park have practical dominion over designated sites on which a mobile home is located which is essentially equivalent to ownership, each member’s interest in the site on which his home is affixed constitutes “ownership” rendering mobile homes taxable as real property. Therefore, any instruments transferring interest, ownership or membership in a site owned by a cooperative mobile home corporation are subject to tax. Mikos v. King’s Gate Club, Inc., 426 So. 2d 74 (Fla. 2nd DCA, 1983); Nordbeck v. Williamson, 529 So. 2d 360 (Fla. 2nd DCA 1988).

(27) Assignment of Lease or Other Conveyance of Leasehold Interest in Realty: All assignments of leases or other conveyances of leasehold interests in real property are taxable under Section 201.02, F.S., based upon the consideration paid, including leasehold mortgages encumbering the interest conveyed. However, mortgages encumbering the fee title are not consideration, except when assumed by the assignee.

(28) Assignment of Successful Bid – An interest in realty transferred or conveyed by assignment of successful bid at a foreclosure sale is taxable under Section 201.02, F.S.

(29) Assignment of Beneficial Interest in Trust created under Chapter 689, F.S.: Effective July 3, 1979, any document which conveys any beneficial interest in a trust agreement is subject to tax, and the tax is to be paid upon execution of the document. The provision in Section 689.071(4), F.S., which defines the interest of a beneficiary under a trust agreement to be personal property only, does not exempt a transfer of the beneficial interest in the trust from documentary stamp tax. Tax is due on any assignment of a beneficial interest in a trust created under Chapter 689, F.S., based on the consideration paid for such assignment.

(30) Construction Mortgage: When realty is conveyed subject to a construction mortgage, the deed is subject to tax based upon the unpaid balance of the mortgage debt at the time of conveyance, in addition to any other consideration given.

(31) Husband and Wife Deeds: Deeds transferring unencumbered property between spouses are not taxable, except that any consideration paid by one spouse to the other spouse for additional shares greater in value than their undivided interest is taxable. Where the property is encumbered, tax is based on the mortgage balance in proportion to the interest transferred by the grantor. However, no tax is due on a deed executed on or after July 1, 1997, between spouses or former spouses at the time of divorce. This exemption does not apply to any transfer of real property other than the marital home. For the purpose of this rule, marital home means the primary residence of the married couple. Thus, for example, a document that conveys any interest in another residence or

investment property is taxable. The tax should be paid on any real property transfers recorded prior to the final divorce decree. After July 1, 1997, an application for refund must be filed within one year of the final divorce decree to request the tax paid on a deed that conveyed the marital home. To request a refund, a completed Form DR-26, Application for Refund, must be submitted with proof of payment of the tax, including a copy of the final divorce decree. Proof that the real property was the marital home is also required.

(32) Trusts Pursuant to Chapter 689, F.S.: A deed to or from a trustee conveying real property is taxable to the extent that the deed transfers the beneficial ownership of the real property and to the extent that there is consideration for the transfer. The following are examples of taxable and exempt conveyances to or from a trustee.

(a) No change in Beneficial Ownership: A deed from X to a trustee is exempt from the stamp tax to the extent of X's beneficial ownership interest as a trust beneficiary, whether or not the real property is encumbered by a mortgage. For example, if X owns encumbered or unencumbered real property and conveys it to the trustee of a trust of which X is the sole beneficiary, the conveyance is exempt from the stamp tax.

(b) Change in Beneficial Ownership: If persons other than X are trust beneficiaries, then a deed from X to a trustee is taxable to the extent of the consideration, if any, for the beneficial interest in the real property transferred to such other persons. The stamp tax is based on any cash, note, release or other consideration from the trust beneficiaries other than X, including their proportionate share of any mortgage encumbering the real property. For example, if X owns unencumbered real property valued at \$100 and X conveys the property to the trustee of a trust of which X and Y are each 50% beneficiaries, and Y pays \$50 cash for the conveyance to the trustee, then stamp tax would be due based on a consideration of \$50.

(c) Gift in Trust: A deed from X to a trustee is exempt from the stamp tax if persons other than X are trust beneficiaries, the transfer is a gift from X to those beneficiaries, and the real property is not encumbered by any mortgage. If the real property is encumbered by any mortgage, then the stamp tax is based on the other beneficiaries' proportionate share of the mortgage indebtedness allocated according to their respective percentage beneficial interest. For example, if X owns real property valued at \$100 which is encumbered by a mortgage of \$50 and X conveys the property to the trustee of a trust of which X and X's daughter are each 50% beneficiaries, and there is no consideration other than the mortgage, then stamp tax would be due based on a consideration of \$25 (one-half of the mortgage indebtedness).

(d) Successor or Substitute Trustee: A deed from a trustee to a successor or substitute trustee of the same trust is not subject to the stamp tax.

(e) Trustee's Deed to Beneficiary: A deed of real property from a trustee to X is not subject to the stamp tax to the extent of X's beneficial ownership interest as a trust beneficiary immediately before the conveyance, whether or not the real property is encumbered by a mortgage. Except as provided in paragraph (f) of this rule below, however, the stamp tax applies to the extent that the trustee transfers to X an ownership interest in the real property greater than X's percentage beneficial ownership interest as a trust beneficiary immediately before the transfer, based on the consideration, if any, for the transfer of the additional interest, including the proportionate share of any mortgage indebtedness encumbering the additional percentage interest in the real property transferred to X by the trustee. For example, if X and X's spouse are each beneficiaries of a trust of which X owns 60% interest and X's spouse owns 50% interest and the trustee conveys to X real property valued at \$100 which is encumbered by a mortgage of \$50, and there is no consideration other than the mortgage, then stamp tax would be due based on a consideration of \$20 (40% of the mortgage indebtedness).

(f) Trustee's Power to Apportion: When trust beneficiaries hold undivided percentage interests in the corpus of the trust rather than specific interests in each parcel of real property held in the trust, and a trust instrument grants the trustee the power to apportion and distribute the various assets of the trust among the beneficiaries, then stamp tax is due on the conveyance of real property from the trustee to a beneficiary only to the extent that the value of that real property exceeds the value of the beneficiary's undivided percentage interest in the trust. For example, a grantor conveys Blackacre and Whiteacre to a trustee for the benefit of the grantor's two children, X and Y, who each have an undivided 50% interest in the trust. The terms of the trust provide that when both X and Y reach 21 years of age, the trustee will liquidate the trust and distribute the assets of the trust between X and Y as the trustee shall determine provided that each beneficiary shall receive property of approximately equal value. Blackacre and Whiteacre are equal in value when X and Y reach 21, and the trustee conveys Blackacre to X and Whiteacre to Y. Stamp tax is due on the initial conveyance from the grantor to the trustee to the extent of any taxable consideration, such as a mortgage on the property (see foregoing paragraph (c) of this rule), but no stamp tax is due on the subsequent conveyances from the trustee to X and Y, regardless of whether any mortgage then encumbers the property.

(g) Trustee's Deed to Non-Beneficiary: The stamp tax applies to a trustee's deed of real property to grantees that are not beneficial owners as trust beneficiaries immediately before the conveyance, to the extent of the consideration given, if any, for the interest in the real property transferred to the non-beneficiary grantees. The stamp tax is based on any cash, note, release or other consideration from the non-beneficiary grantees, including their proportionate share of any mortgage encumbering the real property. For example, if X is the sole beneficiary of a trust and the trustee conveys to X and Y, as 50% tenants-in-common, real property valued at \$100 which is encumbered by a mortgage of \$60, and Y pays \$20 cash for Y's 50% interest in the property, then stamp tax would be due based on the consideration of \$50 (\$20 cash plus 50% of the mortgage indebtedness).

(h) Identity of Parties; Nature of Trust: All conveyances to or from a trustee are equally taxable or exempt as provided in this rule, regardless of:

1. Whether the trustee is the same person as grantor, grantee, or beneficiary,

2. Whether the trustee or grantor or grantee or beneficiary is a natural person or an entity, and

3. Whether a recorded instrument confers on the trustee the powers and authority specified in Section 689.071(1), F.S., or declares the interest of the beneficiaries is personal property as specified in Section 689.071(4), F.S.

(i) Revocable Trust: A deed to a trustee from a grantor who has the power to revoke the trust instrument, and a deed back to the grantor from the trustee upon revocation of the trust, are not transfers of ownership subject to the stamp tax.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History—Revised 8-18-73, Formerly 12A-4.13, Amended 12-11-74, 2-21-77, 5-23-77, 12-26-77, 7-3-79, 9-16-79, 11-29-79, 3-27-80, 12-23-80, 12-30-82, Formerly 12B-4.13, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 7-28-98, 1-4-01, 5-4-03.

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(9), 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 conveying 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 on the conveyance. The exempt status (Section 501(c)(3) IRC) and purpose of the organization must be indicated on the DR-219 form filed with the Clerk.

(15) Transfer in Bankruptcy: Sale of real property by trustees, debtors or receivers in federal bankruptcy proceedings is subject to tax unless the transfer is made pursuant to a plan confirmed under s. 1129 of the Bankruptcy Code, is a precondition or essential to the confirmation of the plan, or is necessary to consummate or implement a confirmed plan and the debtor is a party to the transfer. If the bankruptcy court does not ultimately confirm the plan under 11 U.S.C. 1129, the transfer would not be exempt pursuant to 11 U.S.C. 1146(c), and would be subject to tax. (11 U.S.C. Section 1146(c); In re Jacoby-Bender, Inc., 758 F. 2d 840 (2d. Cir. 1985); In re Smoss Enterprises Corp., 54 Bankr. 950 (E.D.N.Y. 1985)).

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History—Revised 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.

PART IV ORIGINAL ISSUES OF STOCK PART V BONDS

12B-4.041 Imposition of Tax.

(1) Scope of Tax: Section 201.07, F.S., imposes a tax on all bonds, debentures, or certificates of indebtedness issued in the state by any person, and all instruments and documents, however termed, issued by any corporation with interest coupons or in registered form.

(2) Rate and Computation: The rate of tax on bonds is 35 cents on each \$100 or fraction thereof of the face value provided, however, that only that part of the value of the bonds, debentures or certificates of indebtedness issued by any person, the property of which is located within the state, shall bear to the whole value of the property described in said instrument or obligation shall require tax. Tax on bonds is measured by the face value regardless of whether sold at discounted prices. (1931 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 835 (Sept. 29, 1931)) However, bonds which are secured by mortgages or trust deed recorded in this state are subject to the provisions of Section 201.08(1), F.S., and the tax is required to be paid on the mortgage or trust deed. Cross Reference – subsection 12B-4.053(8), F.A.C.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.07 FS. History—Revised 8-18-73, Formerly 12A-4.41, Amended 12-26-77, Formerly 12B-4.41, Amended 12-5-89, 2-13-91, 2-16-93, 12-30-97.

12B-4.042 Issues Subject to Tax.

(1) Secured by Mortgage or Deed of Trust: A bond secured by a mortgage or deed of trust which is recorded in this state is subject to tax.

(2) Religious Non-Profit Corporation: A bond issued by a church corporation is subject to tax. (1932 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 396 (Jan. 7, 1932))

(3) Certificate of Indebtedness: A certificate of indebtedness secured by a mortgage is subject to tax. (Letter from the Att’y. Gen. Fla. to the State Comptroller (March 17, 1932))

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.07 FS. History—Revised 8-18-73, Formerly 12A-4.42, Amended 12-26-77, Formerly 12B-4.42, Amended 12-5-89, 12-30-97.

12B-4.043 Issues Not Subject to Tax.

(1) Assignment of Bond: An instrument merely representing an assignment of a bond is not taxable.

(2) Surety Bonds: Indemnity, fidelity, and surety bonds are not taxable. (1944 Op. Att’y. Gen. Fla. 044-356 (Dec. 6, 1944))

(3) Subdividers Bonds: A bond given by subdividers of real estate in connection with approval of a subdivision by Board of County Commissioners conditioned that should the makers of such bond construct streets, alleys and thoroughfares as promised the bonds would become null and void, otherwise to remain in full force and effect, is not subject to the documentary stamp tax. (1949 Op. Att’y. Gen. Fla. 049-583 (Dec. 7, 1949))

(4) Issued in Another State: Where all steps in the issuance of bonds by Florida corporation took place out of the state, the transaction is not taxable. (State v. Gay, 90 So. 2d 132 (Fla. 1956)). However, where bonds are secured by a mortgage or trust deed recorded in this state, the mortgage or trust deed is taxable.

(5) Governmental Bonds: All notes, bonds, mortgages, deeds and other evidences of indebtedness issued, sold, transferred, assigned or delivered by any State, County, or subdivision thereof, or municipality, all being Governmental agencies, are exempt from the documentary stamp tax. This also applies to such documents and instruments issued by the Federal Government and its agencies. (1931 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 889 (Dec. 8, 1931))

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.07 FS. History—Revised 8-18-73, Formerly 12A-4.43, Amended 12-26-77, Formerly 12B-4.43, Amended 12-5-89, 12-30-97.