

Documentary Stamp Tax Exemptions

Neb. Rev. Stat. § 76-901 (2009). Imposes a tax on the grantor upon the transfer of a beneficial interest in or legal title to real estate at the rate of two dollars and twenty-five cents for each one thousand dollars value or fraction thereof.

- All transfers of a beneficial interest in or legal title to real property are subject to the Documentary Stamp Tax based upon the value of the real estate transferred. The tax is due at the time the deed is offered for recording unless specifically exempt under one of the following exemptions found in **Neb. Rev. Stat. § 76-902 (2009)**, and indicated in **bold print**.

(1) Deeds recorded prior to November 18, 1965.

(2) Deeds to property transferred by or to the United States of America, the State of Nebraska, or any of their agencies, or political subdivisions.

(3) Deeds which secure or release a debt or other obligation.

- Includes mortgages, deeds of trust, and liens.
- Deeds which indicate cancellation of a contract right upon default of a land contract and deeds given by a debtor to a lender in lieu of foreclosure procedures are entitled to this exemption.
- Contractor's deeds that secure or release a debt are entitled to this exemption.
- A trustee's deed or a deed of reconveyance transferring the real property back to the original grantor, indicating payment of the underlying debt or compliance with the terms of the underlying security agreement, qualifies for this exemption.
- A trustee's deed issued after a power of sale has been exercised does **not** qualify for this exemption.

(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.

- Deeds transferring property into the grantor's revocable trust are entitled to this exemption.

(5)(a) Deeds between husband and wife, or parent and child, without actual consideration ..., and (b) deeds to or from a family corporation, partnership, or limited liability company when all the shares of stock of the corporation or interest in the partnership or limited liability company are owned by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred ..., and their spouses, for no consideration other than the issuance of stock of the corporation or interest in the partnership or limited liability company to such family members or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership or limited liability company. In order to qualify for the exemption for family corporations, partnerships, or limited liability companies, the property shall be transferred in the name of the corporation or partnership and not in the name of the individual shareholders, partners, or members;

- The child's spouse may be included as a joint tenant or a cotenant.

(6) Tax deeds.

(7) Deeds of partition.

- Deeds between joint tenants or tenants in common by which they divide land so held by them in severalty each taking a distinct part. To qualify for this exemption, the joint tenants or tenants in common must each take a part of the jointly held property.
- The jointly held property does not have to be part of a contiguous parcel, nor does the divided property need to be of equal value, to qualify for this exemption.

(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 Secretary of State. A copy of such plan filed with the Secretary of State shall be presented to the register of deeds before such exemption is granted.

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

(10) Cemetery deeds.

- Deeds for the sale of cemetery plots.

(11) Mineral deeds.

(12) Deeds executed pursuant to court decrees.

- Includes deeds executed in accordance with property settlement agreements in dissolution of marriages.
- Deeds given in connections with proceedings under the United States Bankruptcy Code are entitled to this exemption.
- Any deed given involuntarily pursuant to a court decree is entitled to this exemption.

(13) Land contracts.

- Including memoranda of a land contract.

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

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

(16) Deeds transferring property located within the boundaries of a Indian reservation if the grantor or grantee is a reservation Indian.

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

- The specific exemption must be indicated on the signed statement.

(18) Deeds transferring property from a trustee to a beneficiary of a trust.

- Deeds transferring property from a trustee to a non-beneficiary are subject to the tax whether or not proceeds of the sale are to go to the beneficiary.
- A deed of trust is a commercial transaction which is not created with beneficial intent and is therefore not entitled to this exemption.

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

(20) Leases.

(21) Easements.

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