



Florida Department of Revenue
Tax Information Publication

TIP

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THIS TIP HAS BEEN SUPERSEDED BY TIP 14B04-01.

TIP 14B04-01 expands and corrects information contained in TIP 12B04-01. The information contained in TIP 12B04-01 should no longer be relied upon.

**Florida Documentary Stamp Tax Laws Concerning
Federal National Mortgage Association (FNMA)
Government National Mortgage Association (GNMA)
Federal Home Loan Mortgage Company (FHLMC)**

Federal laws provide that FNMA, GNMA, and FHLMC are exempt from all taxation imposed by any state. Therefore, under current federal law, the Department of Revenue considers FNMA, GNMA, and FHLMC to be exempt from Florida's documentary stamp tax [See Rule 12B-4.002(2), F.A.C.]. **These laws do not exempt a document from documentary stamp tax. So, when FNMA, GNMA, or FHLMC is a party to a document that transfers an interest in Florida real property, payment of documentary stamp tax is the responsibility of a nonexempt party.**

Documentary stamp tax is due on a deed or other document that transfers an interest in Florida real property unless the document is exempt or all parties to the document are exempt. A document that transfers an interest in Florida real property between a nonexempt party and an exempt entity is subject to tax. The tax is to be paid by the nonexempt party. Agencies, instrumentalities, and political subdivisions of the United States and Florida, and all Florida counties and municipalities are generally exempt from the tax. Federal laws may provide exemptions for entities not considered federal instrumentalities.

Applicable state laws and rules are:

- Section (s.) 201.02(1)(a), Florida Statutes (F.S.), imposes an excise tax on documents that transfer an interest in Florida real property.
- Rule 12B-4.002(1)(a), Florida Administrative Code (F.A.C.), provides that the tax is payable by any party to a taxable document.
- Rule 12B-4.014(8), F.A.C., provides that the United States and its agencies are exempt from the tax and that payment of the required tax is the responsibility of the nonexempt party. *See also* s. 201.01, F.S.

Here are examples of how documentary stamp tax would apply to specific transactions involving FNMA, GNMA, or FHLMC:

Example 1:

FNMA, GNMA, or FHLMC acquires Florida real property via a Certificate of Title issued under s. 45.031(5), F.S., by the Clerk of Court. No documentary stamp tax is due on the Certificate of Title since the Clerk of Court is a government entity and FNMA, GNMA, or FHLMC, are treated as government entities by the Department of Revenue.

Example 2:

Florida real property is acquired by a lending institution following a foreclosure procedure. The lending institution then deeds the property to FNMA, GNMA, or FHLMC in exchange for recovery of the mortgage indebtedness guaranteed by FNMA, GNMA, or FHLMC. The deed is subject to documentary stamp tax and

the Department of Revenue's position is that the lending institution must pay the tax. The taxable consideration would include the amount of the mortgage recovered by the lending institution.

Example 3:

Florida real property is deeded from FNMA, GNMA, or FHLMC to an individual or artificial entity. The individual or artificial entity is not exempt from documentary stamp tax. Documentary stamp tax **is** due on the deed and the Department of Revenue's position is that the individual or artificial entity must pay the tax.

The recent ruling in Oakland County v. Federal Housing Finance Agency as Conservator has raised doubts as to whether FNMA, GNMA, and FHLMC are exempt from documentary stamp tax (Case No. 11-12666, U.S. District Court, Eastern District of Michigan, Southern Division). The Department will monitor developments in this case and if necessary, provide guidance when appropriate.

References: Subsections 201.01 and 201.02(1)(a), Florida Statutes; Rules 12B-4.002(1)(a), 12B-4.002(2) and 12B-4.014(8), Florida Administrative Code

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at www.myflorida.com/dor or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

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