

TIP 98B4-01  
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**LEGISLATIVE CHANGES AFFECTING  
DOCUMENTARY STAMP TAX AND NONRECURRING INTANGIBLE TAX**

The 1997 Legislature made several changes to Florida's documentary stamp tax and nonrecurring intangible tax. These changes became effective July 1, 1997.

Changes to documentary stamp tax affecting transfers of real property:

1. The transfer of a marital home at the time of divorce is not subject to documentary stamp tax for deeds executed on or after July 1, 1997. The transfer of real property other than the marital home remains taxable.
2. Tax is still required to be paid on the recorded transfer of a marital home prior to the final divorce decree. However, for deeds executed on or after July 1, 1997, such tax paid is refundable if the home was transferred within one year prior to the decree. To obtain a refund, the taxpayer must complete Form DR-26 (Application for Refund) and submit it with proof of tax paid and a copy of the final divorce decree. Proof that the real property was the marital home may be required.

**Changes to documentary stamp tax affecting notes and mortgages:**

1. Documentary stamp tax is generally due only once when there are multiple mortgages evidencing a single loan.
2. A cross-collateralization is not subject to tax provided tax was paid on the original note(s) or mortgage(s).
3. The term "renewal note" is redefined to include the

following:

- a) a change in the interest rate; and/or,
  - b) a change in the maturity date; and/or,
  - c) a change in the payment terms.
4. A renewal note evidencing a term obligation is not taxable if:
- a) proof is presented that tax was paid on the original note;
  - b) the renewal note is executed only by the original obligor; and,
  - c) the renewal note extends only the unpaid balance of the original obligation.
5. A renewal note evidencing a revolving line of credit is not taxable if:
- a) proof is presented that tax was paid on the original note;
  - b) the renewal note is executed only by the original obligor; and,
  - c) the renewal note extends no more than the original face amount of the original obligation.
6. Modifications to a document not defined as a renewal, and therefore not taxable, include:
- a) Changing covenants.
  - b) Correcting errors.
  - c) Consolidating collateral.

- d) Severing liens.
  - e) Adding or substituting collateral.
  - f) Changing guarantors.
  - g) Substituting a new mortgagee or payee.
7. Taxability of a document is determined by reference to another document only if that other document is expressly incorporated by reference into the first document.

**There were also changes to the nonrecurring intangible tax affecting the taxability of a line of credit secured by the residence of the borrower.**

1. The term "residence" is redefined to include:
  - a) Primary home.
  - b) Secondary home.
  - c) Vacation home.
2. The tax is due on the maximum amount of the line of credit at the time of execution or recordation, regardless of the number of advances made. The residence cannot be used primarily for rental property and must be occupied by the borrower, the borrower's spouse or the borrower's children. The borrower must be a natural person or a natural person's trust.

**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 more information call Tax Information Services, Monday - Friday, 8:00 a.m. to 5:00 p.m., ET, at 850-488-6800.

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**References:**

Ch. 97-191, L.O.F.

Ch. 97-123, L.O.F.