



Florida Department of Revenue  
Tax Information Publication

TIP

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

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

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 party is subject to tax. **Unless the document is exempt**, 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.

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

Applicable state laws and rules include:

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), 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.

Rule 12B-4.014(9), F.A.C., provides that a document that transfers Florida real property from a bank, savings and loan association or other mortgagee to a federal agency pursuant to a contract of guaranty is not taxable.

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

Example 1:

FNMA or FHLMC acquires Florida real property via a Certificate of Title issued under s. 45.031(5), F.S., by the Clerk of Court. A Certificate of Title is ordinarily subject to documentary stamp tax, but because the

Clerk of Court is a government entity and FNMA and FHLMC are treated as government entities by the Department of Revenue, **no tax is due** on the subject Certificate of Title.

Example 2:

A lending institution acquires Florida real property via a Certificate of Title issued by the Clerk of Court under s. 45.031(5), F.S. Documentary stamp tax **is** due on the Certificate of Title and the lending institution is required to pay the tax.

Example 3:

Florida real property is acquired by a lending institution via a Certificate of Title issued by the Clerk of Court under s. 45.031(5), F.S. The lending institution then deeds the property to FNMA or FHLMC in exchange for recovery of the mortgage indebtedness guaranteed by FNMA or FHLMC. The deed **is not** subject to documentary stamp tax under rule 12B-4.014(9), F.A.C.

Example 4:

Florida real property is deeded from FNMA or FHLMC to a nonexempt party. The deed **is** subject to tax and the nonexempt party must pay the tax.

Example 5:

A lending institution is the successful bidder under a foreclosure. The lending institution assigns its rights under the successful bid to FNMA or FHLMC in exchange for recovery of the mortgage indebtedness guaranteed by FNMA or FHLMC. The assignment of successful bid **is not** subject to documentary stamp tax under rule 12B-4.014(9), F.A.C.

**References: Subsections 201.01 and 201.02(1)(a), Florida Statutes; Rules 12B-4.002(1)(a), 12B-4.002(2), 12B-4.014(8) and 12B-4.014(9), 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](http://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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