

STATE REAL ESTATE TRANSFER TAX ACT
Act 330 of 1993

AN ACT to impose a state tax on the transfer of an interest in real property; to provide for the administration of this act; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the tax; and to prescribe penalties and provide remedies.

History: 1993, Act 330, Eff. Apr. 1, 1994.

The People of the State of Michigan enact:

207.521 Short title.

Sec. 1. This act shall be known and may be cited as the "state real estate transfer tax act".

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.522 Definitions.

Sec. 2. As used in this act:

(a) "Controlling interest" means more than 80% of the total value of all classes of stock of a corporation; more than 80% of the total interest in capital and profits of a partnership, association, limited liability company, or other unincorporated form of doing business; or more than 80% of the beneficial interest in a trust.

(b) "Person" means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity. If used in a penalty clause, person includes the partners or members of a firm, a partnership, or an association and the officers of a corporation.

(c) "Property" includes land, tenements, real estate, and real property and all rights to and interests in land, tenements, real estate, or real property.

(d) "Tax" means the state real estate transfer tax imposed under this act.

(e) "Transfer", unless otherwise exempt under this act, means the conveyance of title to or other transfer of a present interest or beneficial interest or any other interest in real property by any method, including the interest in real property acquired through the acquisition of a controlling interest in any entity with an interest in the property.

(f) "Treasurer" means the state treasurer.

(g) "Value" means the current or fair market worth in terms of legal monetary exchange at the time of the transfer. The tax shall be based on the value of the real property transferred and shall be collected at the time the instrument of conveyance is submitted for recording. In the case of a controlling interest in any entity that owns real property, value shall mean the value of the real property or interest in the real property, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.

History: 1993, Act 330, Eff. Apr. 1, 1994;—Am. 2008, Act 473, Eff. Jan. 1, 2007.

Compiler's note: Enacting section 2 of Act 473 of 2008 provides:

"Enacting section 2. This amendatory act shall take effect January 1, 2007."

207.523 Written instruments subject to tax; person liable for tax; payment date; refund.

Sec. 3. (1) There is imposed, in addition to all other taxes, a tax upon the following written instruments executed within this state when the instrument is recorded:

(a) Contracts for the sale or exchange of property or any interest in the property or any combination of sales or exchanges or any assignment or transfer of property or any interest in the property.

(b) Deeds or instruments of conveyance of property or any interest in property, for consideration.

(c) Contracts for the transfer or acquisition of a controlling interest in any entity only if the real property owned by that entity comprises 90% or more of the fair market value of the assets of the entity determined in accordance with generally accepted accounting principles which shall be recorded.

(2) The person who is the seller or grantor of the property is liable for the tax imposed under this act.

(3) The tax imposed under this act shall be paid to the county treasurer where the real property is located not later than 15 days after the delivery of the instrument effecting the conveyance by the seller or grantor to the buyer or grantee or not later than 15 days after the transfer of a controlling interest in any entity with an interest in the real property. For purposes of this section, the date of the instrument effecting the transfer is presumed to be the date of delivery of the instrument.

(4) After the tax is paid, if the seller or the buyer who has paid the tax on behalf of the seller believes that the property was eligible for an exemption under section 6 at the time of the transfer, the seller or the buyer who has paid the tax on behalf of the seller may request a refund from the department of treasury in a form

and manner determined by the department of treasury. The department of treasury shall pay the refund if it determines that the property was eligible for the exemption under section 6 at the time of the transfer. This subsection is intended to be retroactive and applies to a sale, exchange, assignment, or transfer beginning 4 years immediately preceding the effective date of the amendatory act that added this subsection.

History: 1993, Act 330, Eff. Apr. 1, 1994;—Am. 2008, Act 473, Eff. Jan. 1, 2007;—Am. 2015, Act 217, Imd. Eff. Dec. 15, 2015.

Compiler's note: Enacting section 2 of Act 473 of 2008 provides:
"Enacting section 2. This amendatory act shall take effect January 1, 2007."

207.524 Written instruments executed outside of state.

Sec. 4. There is imposed, in addition to all other taxes, a tax upon all written instruments described in section 3 executed outside of this state if the contract or transfer evidenced by the written instrument concerns property wholly located within this state. A written instrument described in this section is subject to this act.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.525 Tax rate; statement of total value of real property being transferred; affidavit; value of real and personal property stated separately.

Sec. 5. (1) Beginning on January 1, 1995, except as otherwise provided in this section, the tax imposed under sections 3 and 4 is levied at the rate of \$3.75 for each \$500.00 or fraction of \$500.00 of the total value of the property being transferred.

(2) A written instrument subject to the tax imposed by this act shall state on its face the total value of the real property being transferred unless an affidavit is attached to the written instrument declaring the total value of the real property being transferred. The form of the affidavit shall be prescribed by the department of treasury. If the sale or transfer is of a combination of real and personal property, the tax shall be imposed only upon the transfer of the real property if the values of the real and personal property are stated separately on the face of the written instrument or if an affidavit is attached to the written instrument setting forth the respective values of the real and personal property.

History: 1993, Act 330, Eff. Apr. 1, 1994;—Am. 1994, Act 3, Eff. Mar. 30, 1994;—Am. 1994, Act 224, Eff. July 5, 1994.

207.526 Written instruments and transfers of property exempt from tax.

Sec. 6. The following written instruments and transfers of property are exempt from the tax imposed by this act:

- (a) A written instrument in which the value of the consideration for the property is less than \$100.00.
- (b) A written instrument evidencing a contract or transfer that is not to be performed wholly within this state only to the extent the written instrument includes land lying outside of this state.
- (c) A written instrument that this state is prohibited from taxing under the United States constitution or federal statutes.
- (d) A written instrument given as security or an assignment or discharge of the security interest.
- (e) A written instrument evidencing a lease, including an oil and gas lease, or a transfer of a leasehold interest.
- (f) A written instrument evidencing an interest that is assessable as personal property.
- (g) A written instrument evidencing the transfer of a right and interest for underground gas storage purposes.
- (h) Any of the following written instruments:
 - (i) A written instrument in which the grantor is the United States, this state, a political subdivision or municipality of this state, or an officer of the United States or of this state, or a political subdivision or municipality of this state, acting in his or her official capacity.
 - (ii) A written instrument given in foreclosure or in lieu of foreclosure of a loan made, guaranteed, or insured by the United States, this state, a political subdivision or municipality of this state, or an officer of the United States or of this state, or a political subdivision or municipality of this state, acting in his or her official capacity.
 - (iii) A written instrument given to the United States, this state, or 1 of their officers acting in an official capacity as grantee, pursuant to the terms or guarantee or insurance of a loan guaranteed or insured by the grantee.
- (i) A conveyance from a spouse or married couple creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.
- (j) A conveyance from an individual to that individual's child, stepchild, or adopted child.
- (k) A conveyance from an individual to that individual's grandchild, step-grandchild, or adopted grandchild.

(l) A judgment or order of a court of record making or ordering a transfer, unless a specific monetary consideration is specified or ordered by the court for the transfer.

(m) A written instrument used to straighten boundary lines if no monetary consideration is given.

(n) A written instrument to confirm title already vested in a grantee, including a quitclaim deed to correct a flaw in title.

(o) A land contract in which the legal title does not pass to the grantee until the total consideration specified in the contract has been paid.

(p) A conveyance that meets 1 of the following:

(i) A transfer between any corporation and its stockholders or creditors, between any limited liability company and its members or creditors, between any partnership and its partners or creditors, or between a trust and its beneficiaries or creditors when the transfer is to effectuate a dissolution of the corporation, limited liability company, partnership, or trust and it is necessary to transfer the title of real property from the entity to the stockholders, members, partners, beneficiaries, or creditors.

(ii) A transfer between any limited liability company and its members if the ownership interests in the limited liability company are held by the same persons and in the same proportion as in the limited liability company prior to the transfer.

(iii) A transfer between any partnership and its partners if the ownership interests in the partnership are held by the same persons and in the same proportion as in the partnership prior to the transfer.

(iv) A transfer of a controlling interest in an entity with an interest in real property if the transfer of the real property would qualify for exemption if the transfer had been accomplished by deed to the real property between the persons that were parties to the transfer of the controlling interest.

(v) A transfer in connection with the reorganization of an entity and the beneficial ownership is not changed.

(q) A written instrument evidencing the transfer of mineral rights and interests.

(r) A written instrument creating a joint tenancy between 2 or more persons if at least 1 of the persons already owns the property.

(s) A transfer made pursuant to a bona fide sales agreement made before the date the tax is imposed under sections 3 and 4, if the sales agreement cannot be withdrawn or altered, or contains a fixed price not subject to change or modification.

(t) A written instrument evidencing a contract or transfer of property to a person sufficiently related to the transferor to be considered a single employer with the transferor under section 414(b) or (c) of the internal revenue code of 1986, 26 USC 414.

(u) A written instrument conveying an interest in property for which an exemption is claimed under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, if the state equalized valuation of that property is equal to or lesser than the state equalized valuation on the date of purchase or on the date of acquisition by the seller or transferor for that same interest in property and the transaction was for a price at which a willing buyer and a willing seller would arrive through an arms-length negotiation. Notwithstanding section 22 of 1941 PA 122, MCL 205.22, and section 3(4) of this act, if the seller or the buyer who has paid the tax on behalf of the seller believes that the property was eligible for an exemption under this subdivision at the time of transfer, the seller or the buyer who has paid the tax on behalf of the seller may request a refund from the department in a form and manner determined by the department. This subdivision is retroactive and applies to a sale, exchange, assignment, or transfer on or after June 24, 2011.

(v) A written instrument transferring an interest in property pursuant to a foreclosure of a mortgage including a written instrument given in lieu of foreclosure of a mortgage. This exemption does not apply to a subsequent transfer of the foreclosed property by the entity that foreclosed on the mortgage.

(w) A written instrument conveying an interest from a religious society in property exempt from the collection of taxes under section 7s of the general property tax act, 1893 PA 206, MCL 211.7s, to a religious society if that property continues to be exempt from the collection of taxes under section 7s of the general property tax act, 1893 PA 206, MCL 211.7s.

History: 1993, Act 330, Eff. Apr. 1, 1994;—Am. 1994, Act 3, Eff. Mar. 30, 1994;—Am. 1994, Act 255, Imd. Eff. July 5, 1994;—Am. 2000, Act 203, Imd. Eff. June 27, 2000;—Am. 2003, Act 128, Eff. Jan. 1, 2004;—Am. 2008, Act 473, Eff. Jan. 1, 2007;—Am. 2015, Act 217, Imd. Eff. Dec. 15, 2015.

Compiler's note: Enacting section 2 of Act 473 of 2008 provides:

"Enacting section 2. This amendatory act shall take effect January 1, 2007."

207.527 Bankruptcy or insolvency proceeding; exemption from tax.

Sec. 7. A tax is not imposed by this act upon a written instrument that conveys or transfers property or an interest in the property to a receiver, administrator, or trustee, whether special or general, in a bankruptcy or

insolvency proceeding.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.528 Stamp as evidence of tax payment; other methods of cancellation.

Sec. 8. (1) Except as provided in section 9, the payment of the tax imposed by this act shall be evidenced by the affixing of a documentary stamp or stamps to each written instrument subject to the tax imposed by this act by the person making, executing, issuing, or delivering the written instrument. The stamp required by this act may also serve as the stamp required under section 7 of Act No. 134 of the Public Acts of 1966, being section 207.507 of the Michigan Compiled Laws. The stamp or stamps required by this section shall be purchased only in the county in which the property is located.

(2) The person using or affixing the stamps shall affix the stamps so that removal requires the continued application of steam or water. The person using or affixing the stamps shall write or stamp on the stamps his or her initials and the date upon which the stamps are affixed or used so that the stamps cannot again be used.

(3) The treasurer may prescribe another method of cancellation as he or she considers appropriate. If the county treasurer is required to utilize a tax meter machine under section 7 of Act No. 134 of the Public Acts of 1966, the tax meter machine shall be used to evidence the payment of the tax imposed by this act.

History: 1993, Act 330, Eff. Apr. 1, 1994;—Am. 1994, Act 3, Eff. Mar. 30, 1994;—Am. 1994, Act 255, Imd. Eff. July 5, 1994.

207.529 Stamps; prescribing and preparing for use; requisition of stamps by county treasurer; use of tax meter machine; alternative means.

Sec. 9. (1) The treasurer shall prescribe and prepare for use by a county treasurer adhesive stamps of the denominations and quantities that are necessary for the payment of the tax imposed by this act and the tax imposed by Act No. 134 of the Public Acts of 1966, being sections 207.501 to 207.513 of the Michigan Compiled Laws. The county treasurer shall requisition the stamps as required.

(2) The treasurer shall prescribe conditions under which a county treasurer may utilize a tax meter machine to evidence the payment of the tax imposed under this act or the tax imposed under Act No. 134 of the Public Acts of 1966. The treasurer shall provide for the use of a tax meter machine or for the sale of the stamps in such places as the treasurer considers necessary.

(3) The treasurer may prescribe alternate means for the county treasurer to evidence the payment of the tax under this act. The treasurer shall provide the alternative means to the county treasurer if alternative means are used to evidence the payment of the tax under this act.

History: 1993, Act 330, Eff. Apr. 1, 1994;—Am. 1994, Act 3, Eff. Mar. 30, 1994;—Am. 1994, Act 255, Imd. Eff. July 5, 1994.

207.530 Disposition of tax.

Sec. 10. The tax imposed under this act shall be collected by the county treasurer and deposited with the treasurer as provided in this section. By the fifteenth day of each month, the county treasurer shall, on a form prescribed by the treasurer, itemize the tax collected the preceding month and transmit the form and the tax collected to the treasurer. The county treasurer may retain the interest earned on the money collected pursuant to this act while held by the county treasurer, as reimbursement for the costs incurred by the county in collecting and transmitting the tax imposed by this act. The money retained by the county treasurer under this section shall be deposited in the treasury of the county where the tax is collected to the credit of the general fund.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.531 Crediting tax proceeds.

Sec. 11. The treasurer shall credit the proceeds of the tax collected by county treasurers under this act to the state treasury to the credit of the state school aid fund established in section 11 of article IX of the state constitution of 1963.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.532 Payment of tax; written instruments not subject to tax.

Sec. 12. (1) The tax imposed by this act shall be paid only once. A tax shall not be imposed on a written instrument that transfers property if the written instrument is given and the transfer made pursuant to a written executory contract upon which the tax was previously paid. A written instrument that is evidence of indebtedness or of a contract right is subject to the tax imposed by this act only to the extent of the new consideration given for the property. A written instrument that is given to supplement, reform, or correct a prior written instrument is subject to the tax imposed by this act only to the extent of the new consideration given for the property.

(2) A written instrument that would be subject to the tax imposed by this act except for the provisions of this section shall state on its face that the instrument is exempt by reason of the prior payment or partial payment of the tax on another written instrument executed on part of the same transaction and the date of payment.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.533 Recording written instruments; stamps required; reason for exemption to be stated on written instrument; effect of noncompliance with act; use and disclosure of affidavit.

Sec. 13. (1) A written instrument subject to the tax imposed by this act shall not be recorded in the office of the register of deeds of any county of this state unless documentary stamps as required by this act have been purchased at the time of presentation by the party liable for the tax under section 3(2). The stamps shall be affixed to the face of the instrument before recording unless the person specifically requests that the instrument be recorded before the stamps are affixed. If so requested, the stamps may be affixed to the reverse side of the written instrument. However, if it is necessary to record the reverse side of the written instrument, the stamps shall be affixed after recording by the register of deeds. If the written instrument is not subject to the tax, the written instrument shall state on its face the reason for the exemption. A written instrument accepted for recording that does not comply with this act does not affect the validity of the recording as to notice.

(2) An affidavit attached to a written instrument under section 5 shall not be recorded and shall be detached from the written instrument before recording. The affidavit shall be used for auditing purposes only and shall not be disclosed to any other person.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.534 Prohibited conduct; violation as misdemeanor.

Sec. 14. (1) A person shall not do any of the following:

- (a) Fraudulently cut, tear, or remove a documentary stamp from a written instrument.
 - (b) Fraudulently affix to a written instrument upon which the tax is imposed by this act any of the following:
 - (i) A documentary stamp that has been cut, torn, or removed from another written instrument upon which the tax is imposed by this act.
 - (ii) A documentary stamp of insufficient value.
 - (iii) A forged or counterfeited stamp.
 - (iv) An impression of a forged or counterfeited stamp, die, plate, or other article.
 - (c) Willfully remove or alter the cancellation marks of a documentary stamp, restore a documentary stamp with the intent to use or cause the same to be used after it has already been used, knowingly buy, sell, offer for sale, or give away an altered or restored stamp to a person for use, or knowingly use an altered or restored stamp.
 - (d) Knowingly or willfully prepare, keep, sell, offer for sale, or have in his or her possession a forged or counterfeited documentary stamp.
 - (e) Knowingly or willfully issue a false or fraudulent affidavit described in section 5.
- (2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.535 Tax in addition to and collected with tax imposed under MCL 207.501 to 207.513.

Sec. 15. The tax imposed under this act is in addition to and may be collected with the tax imposed under Act No. 134 of the Public Acts of 1966, being sections 207.501 to 207.513 of the Michigan Compiled Laws.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.536 Administration of act.

Sec. 16. This act shall be administered by the revenue division of the department of treasury under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

History: 1993, Act 330, Eff. Apr. 1, 1994.

207.537 Conditional effective date.

Sec. 17. This act shall not take effect unless Senate Joint Resolution S is submitted to the voters and the following bills are enacted into law:

- (a) House Bill No. 5109.
- (b) House Bill No. 5116.

- (c) House Bill No. 5009.
- (d) House Bill No. 5010.
- (e) House Bill No. 5118.
- (f) House Bill No. 5097.
- (g) House Bill No. 5123.
- (h) House Bill No. 4279.
- (i) House Bill No. 5102.
- (j) House Bill No. 5103.
- (k) House Bill No. 5104.
- (l) House Bill No. 5106.
- (m) House Bill No. 5111.
- (n) House Bill No. 5115.
- (o) House Bill No. 5112.
- (p) House Bill No. 5120.
- (q) House Bill No. 5129.
- (r) House Bill No. 5224.

History: 1993, Act 330, Eff. Apr. 1, 1994.

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