142.050 Real estate transfer tax -- Collection on recording -- Exemptions.

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Department of Revenue may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to:

1. Merger or consolidation between and among corporations, partnerships, limited partnerships, or limited liability companies; or

2. Any conversion of a partnership, limited partnership, corporation, or limited liability company into a partnership, limited partnership, corporation, or limited liability company;

(i) Between a subsidiary corporation and its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of either corporation's stock;

(j) 1. Under a foreclosure proceeding; or

2. Pursuant to a voluntary surrender under a mortgage in lieu of a foreclosure proceeding;

(k) Between a person and a corporation, partnership, limited partnership or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;

(m) By a corporation, partnership, limited partnership, or limited liability company to a person as owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the person to whom the property was transferred, if the transfer was for nominal consideration;

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 44, sec. 3, effective July 12, 2012. -- Amended 2006 Ky. Acts ch. 149, sec. 204, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 521, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 341, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 29, sec. 1, effective February 29, 1996. -- Amended 1994 Ky. Acts ch. 55, sec. 1, effective July 15, 1994. Amended 1992 Ky. Acts ch. 19, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 411, sec. 6, effective July 13, 1990. -- Amended 1978 Ky. Acts ch. 251, sec. 1, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 42, sec. 1. -- Amended 1972 Ky. Acts ch. 84, Pt. III, sec. 2. -- Amended 1970 Ky. Acts ch. 161, sec. 1. -- Created 1968 Ky. Acts ch. 182, secs. 1 to 7.

Legislative Research Commission Note (7/12/2006). Under the authority of KRS 7.136(1), during codification a manifest clerical or typographical error occurring in 2006 Ky. Acts ch. 149, sec. 204(7)(h)2. has been corrected. It is clear from the context of the Act that a comma should appear after the words "limited partnership" and before the word "corporation."