STATE OF OKLAHOMA

DOCUMENTARY STAMP TAX

QUICK REFERENCE GUIDE

OKLAHOMA TAX COMMISSION
COMPLIANCE DIVISION

September 2011

DISCLAIMER

This publication includes various statutes and Oklahoma Administrative Code Rules specifically for Oklahoma Documentary Stamp Tax administration. Referenced statutes may be found in Title 68, Oklahoma Statutes, Article 32.

The publication contains commonly referenced statutes but does not include every statute or administrative code rule that may relate to the documentary stamp process or other related procedures.

The material contained in this publication is for the education, reference for county officials and deputies and is not intended to be a legal document. It does not amend, replace enhance or diminish any adopted Oklahoma Tax Commission Rule, Oklahoma Tax Commission tax policy or state statute.

The Oklahoma Statutes and Administrative rules may be found on the following web sites;

http://www.oscn.net

http://www.tax.ok.gov

DOCUMENTARY STAMP TAX

§68-3201. Imposition of tax - Definitions.

A. A tax is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds One Hundred Dollars ($100.00). The tax shall be prorated at the rate of seventy-five cents ($0.75) for each Five Hundred Dollars ($500.00) of the consideration or any fractional part thereof.

B. The tax is limited to conveyances of realty sold and does not apply to other conveyances. The tax attaches at the time the deed or other instrument of conveyance is executed and delivered to the buyer, irrespective of the time when the sale is made.

C. As used in this section:

1. "Sold" means a transfer of an interest for a valuable consideration, which may involve money or anything of value; and

2. "Deed" means any instrument or writing whereby realty is assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or, at his direction, any other person.

3. "Consideration" means the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, exclusive of interest, whether in money or otherwise, for the transfer or conveyance of an interest of realty, including any assumed indebtedness.

Laws 1967, c. 259, § 1; Laws 1971, c. 315, § 1, operative, July 1, 1971; Laws 1978, c. 120, § 1; Laws 1983, c. 275, § 14, emerg. eff. June 24, 1983; Laws 1984, c. 195, § 7, eff. Jan. 1, 1985. Renumbered from § 5101 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 2, eff. Jan. 1, 1992.

§68-3202. Exemptions.

The tax imposed by Section 3201 of this title shall not apply to:

1. Deeds recorded prior to the effective date of Sections 3201 through 3206 of this title;

2. Deeds which secure a debt or other obligation;

3. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;

4. Deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, deeds between any person and an express revocable trust created by such person or such person's spouse or deeds pursuant to which property is

transferred from a person to a partnership, limited liability company or corporation of which the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, or trust for primary benefit of such persons, are the only owners of the partnership, limited liability company or corporation. However, if any interest in the partnership, limited liability company or corporation is transferred within one (1) year to any person other than the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, the seller shall immediately pay the amount of tax which would have been due had this exemption not been granted;

5. Tax deeds;

6. Deeds of release of property which is security for a debt or other obligation;

7. Deeds executed by Indians in approval proceedings of the district courts or by the Secretary of the Interior;

8. Deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess;

9. Deeds made pursuant to mergers of partnerships, limited liability companies or corporations;

10. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

11. Deeds or instruments to which the State of Oklahoma or any of its instrumentalities, agencies or subdivisions is a party, whether as grantee or as grantor or in any other capacity;

12. Deeds or instruments to which the United States or any of its agencies or departments is a party, whether as grantor or as grantee or in any other capacity, provided that this shall not exempt transfers to or from national banks or federal savings and loan associations;

13. Any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid; provided, however, the tax shall apply to deeds in other foreclosure actions, unless otherwise hereinabove exempted, and shall be paid by the purchaser in such foreclosure actions; or

14. Deeds and other instruments to which the Oklahoma Space Industry Development Authority or a spaceport user, as defined in the Oklahoma Space Industry Development Act, is a party.

Added by Laws 1967, c. 259, § 2. Amended by Laws 1968, c. 186, § 1, emerg. eff. April 15, 1968; Laws 1971, c. 315, § 2, operative July 1, 1971; Laws 1988, c. 24, § 1, operative July 1, 1988. Renumbered from § 5102 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992. Amended by Laws 1991, c. 338, § 3, eff. Jan. 1, 1992; Laws 1993, c. 366, § 48, eff. Sept. 1, 1993; Laws 1999, c. 164, § 41, eff. July 1, 1999; Laws 1999, c. 340, § 2, eff. July 1, 1999; Laws 2001, c. 405, § 48, eff. Nov. 1, 2001.

§68-3203. Persons obligated to pay tax - Requisite stamps - Recording.

A. The taxes imposed by Section 3201 of this title shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes imposed by Section 3201 of this title, or for whose use or benefit the same are made, signed, issued or sold.

B. Only documentary stamps shall be used in payment of the tax imposed by Section 3201 of this title. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. Said tax is not to be considered paid until the requisite stamps are affixed to the deed, instrument, or other writing by which the realty is conveyed, which stamps must be affixed before the deed is accepted for recording.

C. The name and address of the buyer shall be shown on the face of the deed, instrument or other writing by which the realty is conveyed prior to the recording of such deed, instrument or other writing.

Laws 1967, c. 259, § 3; Laws 1971, c. 315, § 3, operative July 1, 1971. Renumbered from § 5103 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 4, eff. Jan. 1, 1992.

§68-3204. Design and distribution of stamps - Accounting - Distribution of funds.

A. The Oklahoma Tax Commission shall design such stamps in such denominations as in its judgment it deems necessary for the administration of this tax. The Oklahoma Tax Commission shall distribute the stamps to the county clerks of the counties of this state, and the county clerks shall have the responsibility of selling these stamps and shall have the further duty of accounting for the stamps to the Oklahoma Tax Commission on the last day of each month. Stamp metering machines or rubber stamps as prescribed by the Oklahoma Tax Commission may be used by the county clerk, and the expenses thereof shall be paid by the county concerned. The use of meters or rubber stamps shall be governed by the Oklahoma Tax Commission.

B. The county clerks shall account for all collections from the sales of such tax stamps to the Oklahoma Tax Commission, on the last day of each month. The first fifty-five cents ($0.55) of each seventy-five cents ($0.75) collected shall be apportioned as follows:

1. The county clerks shall retain five percent (5%) of all monies collected for such stamps as their cost of administration and shall pay the same into the county general fund.

2. The remaining ninety-five percent (95%) of the collections shall be transferred by the Oklahoma Tax Commission to the General Revenue Fund of the State Treasury to be expended pursuant to legislative appropriation.

C. The remaining twenty cents ($0.20) of each seventy-five cents ($0.75) collected shall be paid into the county general fund.

Added by Laws 1967, c. 259, § 4. Amended by Laws 1971, c. 315, § 4, operative July 1, 1971; Laws 1978, c. 120, § 2; Laws 1981, c. 78, § 1, operative July 1, 1981; Laws 1986, c. 223, § 48, operative July 1, 1986. Renumbered from § 5104 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992. Amended by Laws 1997, c. 304, § 13, emerg. eff. May 29, 1997.

§68-3205. Rules and regulations - Documentary Stamp Tax Unit.

The Oklahoma Tax Commission shall prescribe such rules and regulations as it may deem necessary to carry out the purpose of Sections 3201 through 3206 of this title. There is hereby created the Documentary Stamp Tax Unit of the Oklahoma Tax Commission. The Oklahoma Tax Commission through the Documentary Stamp Tax Unit shall be responsible for the administration and enforcement of the taxes as imposed by Section 3201 of this title. The provisions of Section 240 of Title 68 of the Oklahoma Statutes apply to the provisions of the documentary stamp tax act.

Laws 1967, c. 259, § 5; Laws 1971, c. 315, § 5, operative July 1, 1971. Renumbered from § 5105 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 5, eff. Jan. 1, 1992.

§68-3206. Violations - Punishments.

A. Any person who shall willfully fail to purchase and affix the exact amount of stamps on any deed, instrument, or writing as required under Section 3201 of this title shall, upon conviction, be subject to a fine of not more than One Thousand Dollars ($1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense.

B. The willful removal or alteration of the cancellation or defacing marks with intent to use or cause the same to be used after a documentary stamp has already been used shall, upon conviction, subject the guilty person to a fine of not more than One Thousand Dollars ($1,000.00) or to imprisonment of not

more than one (1) year, or to both such fine and imprisonment for such offense.

C. Proof of payment of the documentary stamp tax shall be the exhibiting of the conveyance instrument showing the required stamps have been affixed. The failure or refusal of any taxpayer to furnish proof of payment of the documentary stamp tax, upon being so requested to do so by the Oklahoma Tax Commission, within ninety (90) days after being notified by registered or certified mail with return receipt requested shall be prima facie evidence of intent of the taxpayer to defraud the state and evade the payment of such tax. Any taxpayer who intends to defraud the state or evade the payment of the documentary stamp tax, fee, penalty or interest thereon pursuant to the provisions of Section 217 of this title, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) for each offense.

D. Should the county clerk become aware that the provisions of the documentary stamp law have or might have been violated, he or she shall immediately report the facts to the Oklahoma Tax Commission.

Laws 1967, c. 259, § 6; Laws 1971, c. 315, § 6, operative July 1, 1971. Renumbered from § 5106 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 6, eff. Jan. 1, 1992.

OKLAHOMA ADMINISTRATIVE CODE (RULES)
CHAPTER 30

710:30-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. Sections 250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to documentary stamps.

710:30-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Administrator**" means the Director of the Business Tax Division of the Oklahoma Tax Commission. It is the intent of this Chapter that as Division Director, the actions and activities of the administrator shall be in compliance with directives established by the Commissioners of the Oklahoma Tax Commission.

"**Attorney General**" means the chief legal officer of the State of Oklahoma.

"**Commission**" means the Oklahoma Tax Commission.

"**Consideration**" means the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, whether in money or otherwise, for the transfer or conveyance of an interest of realty, or minerals, including any assumed indebtedness. At the time of recording the instrument of transfer or conveyance, the consideration shall be stated, upon forms prescribed by the Oklahoma Tax Commission, and signed by the grantee, in accordance with the procedures prescribed by the Oklahoma Tax Commission.

"**Deed**" means any instrument or writing whereby realty or minerals are assigned, transferred, or otherwise conveyed to or vested in, the purchaser or, at his direction, any other person.

"**Grantee**" means the person receiving property.

"**Grantor**" means the person selling, giving or conveying the property.

"**Mineral Deed**" means the instrument which conveys a mineral interest in land.

"**Mineral Interest**" means the property interest created in oil or gas or other minerals by a mineral deed.

"**Realty**" includes those interests in real property, which endure for a period of time, the termination of which is not fixed or ascertained by a specific number of years; and, those interests enduring for a fixed period of years but which, either by reason of the length of the term or grant of a right to extend the term of renewal, consists of rights closely approximating interests in real property which

endure for a period of time the termination of which is not fixed or ascertained by a specific number of years.

"**Sold**" means a transfer of interest for a valuable consideration, which may involve money or any other item of value.

710:30-1-3. Purchase and affixing of documentary stamps

(a) Only documentary stamps shall be used in payment of the tax imposed by Oklahoma Statutes. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. If there is insufficient space on the face of the deed, instrument, or other writing to affix the required documentary stamps, such stamps shall be affixed to a second or subsequent page of the document, or in the absence of a second or subsequent page, the stamps shall be affixed to the back of the deed, instrument, or other writing by which the realty is conveyed. It shall be the responsibility of the County Clerk to ensure that the page on which the stamps are affixed is recorded as part of the deed, instrument, or other writing conveying the realty. [**See:** 68 O.S.1991, Section 3203(B)]

(b) Documentary stamps may be purchased, and requisite forms for the purchase of such stamps may be obtained, from the sources and in the manner provided for by statute. [**See:** 68 O.S.1991, Section 3204]

(c) If a taxpayer claims exemption from the payment of the documentary stamp tax, and there is no notation on the face of the deed indicating the reason for claiming the exemption, the county clerk shall make a brief notation on the face of the deed indicating the reason for claiming the exemption.

(d) If a single deed conveys property located in more than one county, the stamps will be purchased from, and the deed filed in, the county having the largest portion of the property. Certified copies of the deed showing the stamps affixed will then be filed in the affected counties.

[**Source:** Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94; Amended at 11 Ok Reg 4689, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2625, eff 6-26-95]

710:30-1-4. Documentary stamp tax based on consideration; interest; property

For purposes of computing the amount received in a transaction subject to the documentary stamp tax imposed by this statute no distinction is to be made between cash or security received by the seller.

(1) **Measurement.** The tax shall be measured by:

(A) The consideration;

(B) The value of the interest conveyed; or

(C) The value of the property conveyed.

(2) **Basis.** In each instance the basis for computing the tax shall be:
(A) The down payment; plus
(B) The amount of new and assumed mortgages; plus
(C) Any other valuable benefits received by the seller.

(3) **Personal property.** Any personal property transferred shall have its value deducted from the gross value transferred prior to computing the tax.

710:30-1-5. Use of documentary stamps on conveyances by defaulting mortgagee; exemptions

(a) Unless otherwise exempt, a conveyance by a defaulting mortgagee in consideration of the cancellation of the mortgage debt is subject to the documentary stamp tax based on the remaining balance plus accrued interest.

(b) Effective with deeds filed July 1, 1988 or subsequent, 68 O.S. 1988, Section 5102(13), now codified at 68 O.S.1991, Section 3202(13), was amended to exempt three categories of conveyances:

(1) **Deeds in foreclosure actions.** Deeds executed in a Foreclosure Action in which the grantee of the new deed was the mortgage holder of the property being foreclosed, and the property was deeded to the mortgagee for no additional consideration.

(2) **Deeds executed pursuant to a power of sale.** Deeds executed pursuant to a Power of Sale in which the grantee of the new deed was the mortgage holder of the property being sold and no additional consideration is exchanged.

(3) **Deeds in lieu of foreclosure.** Deeds accepted In Lieu of Foreclosure in which the grantee of the new deed was the mortgage holder of the property being conveyed to the mortgage holder for no consideration other than the cancellation of the debt and no additional consideration is exchanged. [**See:** 68 O.S.1991, Section 3202(13)]

[**Source:** Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-6. Examination of county records

Tax Commission auditors will periodically review deeds filed with each county clerk. The examinations shall consist of:

(1) Extracting information concerning the amount of Documentary Stamp Tax paid;

(2) Verifying the proper affixing of the Documentary Stamp;

(3) Verifying the payment of the Documentary Stamp Tax;

(4) Extracting information concerning nonpayment of the Documentary Stamp Tax;

(5) Examination of the records of the county clerk concerning the administration of the Documentary Stamp Tax Act.

710:30-1-7.Assessment for nonpayment or insufficient payment; payment; protest

(a) **Assessment.** Any taxpayer filing a deed for record with a county clerk is responsible for either paying the required amount of documentary stamp tax or indicating in writing on the deed the authority for nonpayment. If after a review of the records, it appears that the taxpayer has failed to pay the tax, or has paid an insufficient amount of tax, or has failed to indicate the reason for nonpayment of the tax, the Commission shall:

(1) Send a proposed assessment letter to the last known address of the taxpayer. The assessment letter shall contain the amount of delinquent tax, the penalty assessed, and a computation of the interest due.

(2) If there is no response within thirty (30) days of the mailing of the proposed assessment, the assessment will become absolute and final and a Tax Warrant will be issued by the Commission.

(b) **Response to assessment.** In response to the assessment letter, the taxpayer may:

(1) Submit a copy of the deed which shows that the proper amount of tax has previously been paid; or

(2) Proceed to the county clerk's office and pay the tax. If this is done, it is the taxpayer's responsibility to submit a copy of the deed with the properly affixed stamps. In addition, the taxpayer shall remit payment to the Commission for the amount of penalty and interest that has been assessed; or

(3) Submit proof of exemption from payment of the tax; or

(4) Protest the assessment. If a protest is presented to the Commission it will be forwarded to the General Counsel's office of the Oklahoma Tax Commission for disposition.

(c) **Payments.** Two payments must be made for all delinquent documentary stamp taxes. The first in the amount of the tax will be made to the county clerk's office. The second, for penalty and interest will be made to the Oklahoma Tax Commission.

[**Source:** Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-8. Property subject to the documentary stamp tax

(a) All property transferred by deed that is not specifically exempted by statute is subject to the documentary stamp tax, and shall be paid by either the grantee or the grantor. Some examples of property which are subject to the tax are:

(1) Mineral deeds;

(2) Sheriff's deeds. The tax is based on the amount bid for the property plus any other costs incurred by the purchaser. (See 710:30-1-5(b) for exception);

(3) A conveyance of realty in consideration of life maintenance. The tax will be based on the net value of the realty conveyed;

(4) Assumed and/or wraparound mortgages. The tax will be based on the balance of the mortgage plus any other valuable consideration exchanged;

(5) Realty traded. Documentary stamps will be required on both deeds if the deeds conveyed property. The tax will be based on the market value of the property conveyed; and

(6) Conveyance of property in forming a new corporation in exchange for stock of that corporation. The tax will be based on the original purchase price of the realty conveyed plus any improvements placed thereon since the original purchase. If the original purchase price can not be determined the tax will be based on the fair market value of the property conveyed.

(b) The properties listed in (a) of this Section are examples only and are not intended to be all-inclusive.

[**Source:** Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-9. Conveyances not subject to the documentary stamp tax

In addition to the exemptions allowed under 68 O.S.1991, Section 3202, the following nonexclusive list constitutes further examples of conveyances not subject to the documentary stamp tax:

(1) Conveyances of realty without consideration, including a deed conveying property as a bona fide gift;

(2) A conveyance given by an executor or executrix in accordance with the terms of a will;

(3) A conveyance from an agent to his principal conveying realty purchased for and with funds of the principal;

(4) True deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests. In such a case, the tax will attach to the deed conveying such excess share and will be based upon the consideration for the excess;

(5) Ordinary leases of real property;

(6) A conveyance to a receiver of realty included in the receivership assets, and reconveyance of such realty upon termination of the receivership; and

(7) Transfer of realty in a statutory merger or consolidation from a constituent corporation to the new or continuing corporation.

[**Source:** Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-10. Duties and responsibilities of the county clerk

County clerks are responsible for selling Documentary Stamps to the taxpayers and have the duty of accounting for the stamps to the Oklahoma Tax Commission. For the purpose of collecting the stamp tax, the county clerks act as agents of the Oklahoma Tax Commission.

(1) Documentary stamps are to be purchased only from the county clerk of the county in which the realty conveyed is located. If the property being conveyed by the deed is located in more than one county, the stamps will be purchased from the county in which the original deed is filed. Certified copies of such deed, showing stamps affixed, can then be filed with the other county or counties where the property is located.

(2) In order to make a correct determination of tax due, the county clerks have the duty to request taxpayers to produce satisfactory documentation which correctly discloses the value of the property. The total value of the consideration paid can be determined from a real estate purchase contract, closing statement, bill of sale, or any other documentation showing the total price of the property sold.

(3) County clerks shall make sure that the Documentary Stamps are not sold over the counter. The stamps can only be sold when the tax is paid and the stamps affixed to the deed. Stamps are to be sold only when the deed is offered for recording.

(4) County clerks shall make sure that the proper amount of stamps are affixed. Metering machines may not be used to collect an odd tax amount or, in other words, to collect an amount of tax that is not a multiple of .75 cents. Stamps worth .75 cents must be affixed for each $500.00 (or any fractional part thereof) of the consideration. When a metering machine is used, a single stamp can be printed for the total tax amount rather than attaching multiple stamps. However, whether a metering machine is used or not does not change the tax amount. Thus .75 cents is still required for each $500.00 of consideration or fractional part thereof. This can be illustrated by the following example: The selling price of Blackacre is $30,250.00. Based on this consideration paid, the deed will require 61 documentary stamps at 75 cents each, which computes to a tax amount of $45.75. It is improper to use a metering machine to calculate the tax on 60.5 documentary stamps, or $45.38.

(5) If the taxpayer claims exemption from the payment of the documentary stamp tax, and there is no notation on the deed indicating the reason for the claiming of the exemption, the county clerk shall make a brief notation on the face of the deed indicating the reason for claiming the exemption.

[**Source:** Amended at 11 Ok Reg 3493, eff 6-26-94; Amended at 11 Ok Reg 3943, eff 7-11-94]

DOCUMENTARY STAMP TAX QUESTIONS AND ANSWERS

1. WHAT STATUTE AND RULES GOVERNS THE DOCUMENTARY STAMP TAX?

The application of the documentary stamp tax is governed by Oklahoma Statutes, Title 68, Article 32, Section 3201 through Section 3206 and Oklahoma Tax Commission Permanent Rules 710:30-1-1 through 710:30-1-10.

Reference: Section 3201-3206; Rules 710:30-1-1 through 710:30-1-10

2. WHAT IS THE DOCUMENTARY STAMP TAX?

The documentary stamp tax is a conveyance tax levied upon any deed, instrument or other writing conveying realty sold from one entity to another entity when the consideration or value of the property conveyed exceeds One Hundred Dollars ($100.00).

Reference: Section 3201(A); Rule 710:30-1-8

3. WHAT IS THE DEFINITION OF CONSIDERATION?

Consideration is defined as the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, exclusive of interest, whether in money or otherwise, for the transfer or conveyance of an interest of realty, including any assumed indebtedness.

Reference: Section 3201(C)(3); Rule 710:30-1-2

4. WHEN IS THE DOCUMENTARY STAMP TAX PAYABLE?

The documentary stamp tax attaches to an instrument at the time of conveyance to the purchaser, but is not required to be paid and affixed to the deed, instrument or other writing until the time of filing with the County Clerk.

5. WHAT IS THE DOCUMENTARY STAMP TAX RATE?

Documentary stamps are required at the rate of ($0.75) per each Five Hundred Dollar ($500.00) increment or fraction thereof, when the full consideration exceeds One Hundred Dollars ($100.00) in value.

6. WHO IS HELD RESPONSIBLE FOR THE PAYMENT OF THE DOCUMENTARY STAMP TAX?

On those deeds requiring documentary stamps both the grantor and the grantee of the deed can be held responsible for the affixing of the stamps. On those deeds where one of the parties is specifically exempt from the payment of the documentary stamp tax, the nonexempt party to the deed will be held responsible.

An example of such a deed would be where an entity such as the Federal National Mortgage Association (Fannie Mae) is a party to the deed, either as grantor or grantee. Fannie Mae is not a federal agency or department and would not qualify under Exemption 12, therefore the deed would require documentary tax stamps. Even though Fannie Mae is not a federal agency or department they are federally chartered and their federal charter exempts them from paying taxes, other than realty tax. Under such a case we would look to the nonexempt party for the payment of tax. (Reference Question 27)

Unless specifically exempt, deeds conveyed pursuant to a sheriff's sale are required to have documentary stamps affixed; such stamps are thus the responsibility of the purchaser.

Reference: Section 3202(12 & 13) and 3203(A); Rule 710:30-1-8

7. WHERE MAY DOCUMENTARY STAMPS BE PURCHASED?

The Oklahoma Tax Commission is not authorized to sell the documentary tax stamps to anyone other than the County Clerk. All stamps purchased by the taxpayer must be purchased from the County Clerk in the county where the deed is filed.

Reference: Rule 710:30-1-10(1)

8. MAY DOCUMENTARY STAMPS BE SOLD OVER THE COUNTY BY THE COUNTY CLERK?

NO! Documentary stamps can only be sold when the document is offered to the County Clerk for filing and will be affixed to the conveying instrument by the County Clerk at the time of filing. (See Question 23 for the only exception.)

Reference Section 3203(B); Rule 710:30-1-10(3)

9. IS THERE ANY METHOD BY WHICH THE REQUIRED DOCUMENTARY STAMPS CAN BE PURCHASED, BUT NOT AFFIXED TO THE DEED AT THE TIME OF FILING? (SEE QUESTION 19 FOR THE ONLY EXCEPTION.)
NO! Effective January 1, 1992, all deeds or conveyances requiring documentary stamps will have such stamps affixed at the time of filing.

Reference: Section 3202(B)

10. IF THE REQUIRED DOCUMENTARY STAMPS ARE NOT PURCHASED AND AFFIXED TO THE DEED OR CONVEYANCE AT THE TIME OF FILING IS THERE A PENALTY OR INTEREST IMPOSED FOR THE LATE PURCHASE OF THE STAMPS?
If stamps are not purchased and affixed to the deed within thirty (30) days of the filing of the deed the penalty for the delinquent purchase of the stamps will be imposed at ten percent (10%) of the stamp amount. Interest accrues at the rate of fifteen (15%) per annum from the date of filing through the date of purchase of the stamps. Additional penalties can be imposed under Section 3206(A), (B), or (C). All penalties and interest are payable to the Oklahoma Tax Commission.

Reference: Title 68, Section 217, Section 3206(A)(B)(C)

11. WHAT DOCUMENTS CAN BE PRESENTED TO THE COUNTY CLERK TO VERIFY THE PURCHASE PRICE OR CONSIDERATION PAID FOR REALTY?
The total purchase price of the realty can be determined from a real estate purchase contract, closing statement, bill of sale, or any other documentation confirming the total price paid for the property.

Reference: Rule 710:30-1-10

12. ARE ALL DEEDS, INSTRUMENTS, OR OTHER WRITINGS CONVEYING REALTY FROM ONE ENTITY TO ANOTHER ENTITY SUBJECT TO THE DOCUMENTARY STAMP TAX?
Unless specifically exempt under Section 3201(A) or (B), Section 3202, or exempt under a federal or state statute other than the documentary stamp tax statutes, all deeds, instruments, or writings conveying realty from one entity to another entity is subject to the documentary stamp tax.

Reference: Rule 710:30-1-8

13. ARE MINERAL DEEDS AND TIMBER DEEDS SUBJECT TO DOCUMENTARY STAMP TAX?

An interest in minerals or timber is considered an interest in realty and as such would be subject to the documentary stamp tax.

Reference: Rule 710:30-1-8

14. WHAT ARE SOME EXAMPLES OF CONVEYANCES SUBJECT TO THE DOCUMENTARY STAMP TAX?

Some of the examples of conveyances subject to the documentary stamp tax are:

a) Mineral deeds and timber deeds;
b) A conveyance of realty to a corporation in exchange for stock of the corporation;
c) A conveyance of realty to a partnership in consideration for an ownership interest or an increase in ownership interest, either as a percentage increase, an equity increase, or an increase in the capital account;
d) Realty conveyed pursuant to the dissolution of a partnership if one of the partners acquires a larger portion than which he is entitled. The tax would then be computed on the additional portion of realty acquired;
e) A trade of realty, each conveyance being taxable based upon the value of the realty traded;
f) A transfer among family members is consideration is shown;
g) Realty conveyed pursuant to assumed, wraparound, or new mortgages;
h) Outright purchase.

*****THESE ARE EXAMPLES ONLY AND ARE NOT INTENDED TO BE ALL INCLUSIVE*****

Reference: Rule 710:30-1-8

15. ARE "DEEDS IN LIEU OF FORECLOSURE", "DEEDS IN FORECLOSURE ACTIONS:, OR "DEEDS ISSUED PURSUANT TO A POWER-OF-SALE" SUBJECT TO THE DOCUMENTARY STAMP TAX?

If the property is purchased by anyone other than the entity that held the note, documentary stamps would be required. See Exemption 13 for those deeds or conveyances not requiring stamps.

Reference: Section 3202(13); Rule 710:30-1-5

16. IS REALTY CONVEYED AS A GIFT SUBJECT TO THE DOCUMENTARY STAMP TAX?

Realty conveyed as an absolute gift is not subject to the documentary stamp tax since there would be no sale as required by Section 3201.

Reference: Section 3201(B) and 3201(C)(1); Rule 710:30-1-9(1)

17. ARE DEEDS CONVEYING REALTY TO A "REVOCABLE TRUST" SUBJECT TO THE DOCUMENTARY STAMP TAX?

If the individual(s) transferring the realty to the trust maintains control over the trust and can revoke the trust at any time, the conveyance would not be subject to the documentary stamp tax.

18. WHAT ACTION IS REQUIRED WHEN A DEED THAT IS EXEMPT FOR THE DOCUMENTARY STAMP TAX IS OFFERED FOR FILING?

When a deed that is exempt from the documentary stamp tax is offered for filing the authority for the exemption of the tax must be indicated in writing on the deed.

Reference: Rule 710:30-1-10(5)

19. HOW ARE DEEDS OR OTHER CONVEYANCES THAT HAVE BEEN FILED WITHOUT THE REQUIRED AMOUNT OF DOCUMENTARY STAMPS AFFIXED ASSESSED FOR THE DELINQUENT PURCHASE OF THE STAMPS?

Documentary stamp tax can be assessed from information furnished by the County Clerk's Office or by information gathered by an agent of the Oklahoma Tax Commission. A letter is mailed to the grantee on the deed, advising them of the proposed assessment of the tax. The grantee is then offered the opportunity to show why stamps were not affixed to the deed or to purchase the required amount of stamps and have them affixed to the deed. In addition, any penalty and interest due for the delinquent purchase of the stamps must be paid to the Oklahoma Tax Commission.

Reference: Section 3206(D); Rule 710:30-1-7

20. IF STAMPS ARE AFFIXED TO A DEED THAT DOES NOT REQUIRE STAMPS, OR IF THE WRONG AMOUNT OF STAMPS ARE AFFIXED, IS THERE A METHOD WHEREBY A REFUND CAN BE RECEIVED FOR THE STAMPS ERRONEOUSLY PURCHASED OR STAMPS PURCHASED IN THE WRONG AMOUNT?

If stamps are purchased for a deed not requiring stamps, or if stamps are purchased in excess of what is actually required, an application for a refund can be made by requesting such refund through the Oklahoma Tax Commission. Additional information or requirements will then be forthcoming from the Refund Section.

21. CAN DOCUMENTARY TAX STAMPS BE PURCHASED IN AN AMOUNT GREATER THAN WHAT IS ACTUALLY REQUIRED?

NO! Documentary stamps must be purchased in the **exact** amount required. Note that stamps are sold in increments of seventy-five cents ($0.75) only.

Reference: Section 3206(A); Rule 710:30-1-10(4)

22. WHAT IS A DEED OR CONVEYANCE IS OFFERED FOR FILING AND THE TAXPAYER REFUSES TO PROVIDE DOCUMENTATION TO SUPPORT THE AMOUNT PAID FOR THE PROPERTY OR A REASON FOR THE NONPAYMENT OF TAX?

The County Clerk has a statutory obligation to report such instances to the Oklahoma Tax Commission. Any additional documentation that can help support the taxability of the deed should also be provided to the Commission.

Reference: Section 3206(D); Rule 710-30-1-10

23. IS THERE ANY TIME DOCUMENTARY TAX STAMPS CAN BE PURCHASED AND AFFIXED TO A DEED AFTER THE DEED HAS BEEN FILED?

Generally, the only time documentary tax stamps will be affixed to a deed that has already been filed would be in those cases where the Oklahoma Tax Commission has determined that an inadequate amount of stamps were affixed to the deed at the time of filing or when there appears to be an invalid exemption of the payment of the tax. Under such circumstances the Oklahoma Tax Commission will send a proposed assessment to the taxpayer advising the taxpayer of the delinquency and advising them to purchase the required amount of documentary stamps from the County Clerk where the deed was filed and have the stamps affixed to the original deed or to a certified copy of the deed on file. A certified copy of the deed showing the proper amount of

stamps affixed should then be mailed to the Oklahoma Tax Commission by the taxpayer or by the County Clerk.

Any interest and penalty due on the late purchase of the documentary stamps must be sent to the Oklahoma Tax Commission by the taxpayer.

Reference: Internal Procedures

24. HAVE THERE BEEN ANY ADDITIONAL CHANGES TO THE DOCUMENTARY STAMP TAX LAW THAT WILL HAVE AN IMPACT ON THE FILING OF THE DEEDS?

Effective May 29, 1997 Section 3204(A) was amended to allow the use of rubber stamps on those deeds requiring documentary stamps tax. A sample of the rubber stamp that has been approved by the Oklahoma Tax Commission is shown at the end of this booklet.

In effect, this means that payment of the documentary stamp tax can be acknowledged by any of three methods authorized by statute; 1) actual paper stamps, 2) metered stamp, and 3) use of the rubber stamp.

Rules governing the use of the rubber stamp have not been approved as of this date.

Effective July 1, 1999 Section 3202(4) amended to exempt conveyances between related individuals and express revocable trusts, partnerships, LLC's, and corporations. Exemption #14 added (Oklahoma Space Industry Authority).

25. EXEMPTION 11 SERVES TO EXEMPT THOSE DEEDS IN WHICH THE STATE OF OKLAHOMA OR ANY OF ITS INSTRUMENTALITIES, AGENCIES OR SUBDIVISIONS ARE A PARTY. WHAT ARE SOME EXAMPLES OF ENTITIES COVERED UNDER THIS EXEMPTION?

Exemption 11 would serve to exempt those deeds in which the following entities are a party:

<u>DEPARTMENT OF ADMINISTRATION</u>

1) Oklahoma Capital Authority

<u>DEPARTMENT OF COMMERCE</u>

1) Oklahoma Development Finance Authority and Oklahoma Capitol Investment Board
2) East Central Oklahoma Building Authority
3) East Central Oklahoma Gas Authority
4) Oklahoma Housing Finance Agency

5) Kiamichi Development Authority
6) Mid-South Industrial Authority
7) Midwestern Oklahoma Development Authority
8) North Central Oklahoma Municipal Power Pool Authority
9) Northeast Oklahoma Public Facilities Authority
10) Oklahoma Municipal Power Authority Board
11) Oklahoma Ordinance Works Authority
12) Southeastern Oklahoma Development Trust
13) Southern Oklahoma Development Trust
14) Tri-County Development Authority
15) Oklahoma World Trade Development Authority
16) Oklahoma Housing Authority
17) Monkey Island Development Authority

DEPARTMENT OF EDUCATION

1) Oklahoma Educational Authority

DEPARTMENT OF NATURAL RESOURCES

1) Environmental Finance Authority
2) REDARK Development Authority

DEPARTMENT OF TRANSPORTATION

1) All Port Authorities
2) Transportation Commission and Department of Transportation
3) Oklahoma Turnpike Authority

MISCELLANEOUS

1) Oklahoma Environmental Finance Authority
2) Oklahoma Environmental Protection Authority
3) Oklahoma State Firemen's Building Authority
4) Grand River Dam Authority
5) Oklahoma SSC Development Authority
6) Cities, Counties, State Colleges and Universities

In addition there are various Indian tribal authorities that would fall under this category of exemption, however, we are not in possession of a listing of such authorities. In such a case, each deed would need to be reviewed to determine if it might fall under the exemption. If the County clerk is still uncertain if the deed would qualify under the exemption, it becomes the taxpayer's responsibility to provide adequate documentation supporting their use of the exemption.

26. EXEMPTION 12 EXEMPTS THOSE DEEDS TO WHICH THE UNITED STATES OR ANY OF ITS AGENCIES OR DEPARTMENTS IS A PARTY. WHAT ARE SOME OF THE EXAMPLES OF ENTITIES COVERED UNDER THIS EXEMPTION?

Exemption 12 would serve to exempt those deeds in which the following entities are a party, either as grantor or grantee or in any other capacity:

1) Veterans Administration (VA)
2) Department of Housing & Urban Development (HUD)
3) Government National Mortgage Association (GNMA - A Division of HUD)
4) Federal Deposit Insurance Corporation (FDIC)
5) Resolution Trust Corporation (RTC - Replaced the FSLIC)
6) Federal Housing Administration (FHS)
7) Federal Home Loan Mortgage Corporation (Freddie Mad)
8) Social Security Administration (SSA)
9) Small Business Administration (SBA)
10) Farm Credit Administration (FCS)

27. THERE ARE SEVERAL ENTITIES THAT, DUE TO THEIR FEDERAL CHARTER, ARE EXEMPT FROM PAYING THE DOCUMENTARY STAMP TAX. COULD YOU GIVE SOME EXAMPLES OF SUCH ENTITIES AND IS THE NONEXEMPT PARTY THEN RESPONSIBLE FOR THE TAX?

Some examples of such entities are listed below. In the case where an exempt entity is a party to the deed, the burden of the tax would fall upon the nonexempt party, whether as grantor or grantee.

1) Federal National Mortgage Association (Fannie Mae)
2) Farm Credit Banks
3) Farm Credit Services
4) Production Credit Associations
5) Federal Land Banks and Associations
6) Banks for Cooperatives

Please destroy all previous copies of the Statutes, Rules and Questions and Answers previously provided to the Office of the County Clerk.

This document is not be distributed to other county offices or other individuals without prior approval of the Oklahoma Tax Commission.

Pursuant to Title 68 O.S. 1991, Section 3204, the two (2) facsimiles shown below have been approved by the Oklahoma Tax Commission to be used by those counties that choose to use the Rubber Stamp.

----------STAMP #1----------

Stamp #1 is to be used by those counties who manually enter dates, book, and page on the recorded documents. The stamp is to be no larger than three inches (3") wide, by one and one-quarter (1 1/4") high. This will insure uniformity throughout the State for those counties electing to use the rubber stamp in lieu of paper stamps or the metering machine.

STATE OF OKLAHOMA, _____ County
Filed for record on the _____ day
of _____, 20__, AT _____ ___M
Book _____, at Page _____,
Documentary Stamps: $_____.
_____, County Clerk
_____, Deputy

----------STAMP #2----------

Stamp #2 is to be used by those counties utilizing systems that automatically place the book and page number on instruments offered for recording. The stamp should measure approximately two and one-quarter inches (2 1/4") wide by three-fourths inches (3/4") high.

STATE OF OKLAHOMA
_____ County
Documentary Stamps: $ _____

DOCUMENTARY STAMP TAX REFUND CHECKLIST
OKLAHOMA TAX COMMISSION
Last revised on 09/03/09

☐ Indicates documents to be filed with the Oklahoma Tax Commission.

• Indicates documents to be filed with the county clerks.

A request for refund of the Documentary Stamp Tax requires:

☐ A LETTER explaining why the refund is due, and
☐ A COPY OF THE CANCELED CHECK or RECEIPT ISSUED BY THE COUNTY CLERK in payment of the Documentary Stamp Tax. If neither is available, send an AFFIDAVIT verifying the party who paid the tax. We will issue the refund to the party who bought the stamps.
☐ **IN ADDITION, HANDLE THE SPECIFIC SITUATION AS BELOW:**

A. PAID IN ERROR:
☐ Send the ORIGINAL DEED WITH THE STAMP in order for the stamp to be voided. After the stamp is voided and a copy made for our file, we will return the deed to the taxpayer.

B. PAID TWICE:
☐ Send a COPY of the FIRST DEED showing the Documentary Stamp Tax affixed.
☐ Send the ORIGINAL SECOND DEED so the Oklahoma Tax Commission can void that stamp.

C. FILED IN THE WRONG COUNTY:
• Take the ORIGINAL DEED to the correct county clerk along with PROOF OF PROPERTY VALUE. The county clerk will void the incorrect stamp and initial and date the voiding notation.
• Purchase the stamp from the correct county and affix to the same deed.
• File the ORIGINAL DEED with the correct county.
☐ Send a COPY OF THE DEED reflecting both stamps.

D. REFUND OF OVERPAYMENT:
• Take the ORIGINAL DEED to the county along with PROOF OF PROPERTY VALUE, so the county clerk can void the stamp.
• Purchase the correct stamp and affix to the same deed.
• Re-file the deed with the county.
☐ Send a COPY OF THE DEED reflecting both stamps.
☐ Send PROOF OF THE ACTUAL TAXABLE BASE, such as a copy of the CONTRACT or CLOSING STATEMENT.

After the refund request has been approved, it will be sent to the Credits & Refunds Section of the Oklahoma Tax Commission. The Oklahoma Tax Commission will issue a check and notify the county to refund its portion of the tax.
The two checks will total the refund due.

Mail Request to:

OKLAHOMA TAX COMMISSION
COMPLIANCE DIVISION/Business Office Audit.
PO BOX 269054
OKLAHOMA CITY, OK 73126-9054