

COUNTY REGISTRY OF DEEDS

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2 Turner St
Auburn, ME 04210
Telephone: 207-782-0191

Aroostook County (North)
P.O. Box 47, 22 Hall St Suite 201
Fort Kent, ME 04743
Telephone: 207-834-3925

Aroostook County (South)
26 Court St Suite 102
Houlton, ME 04730
Telephone: 207-532-1500

Cumberland County
P.O. Box 7230
Portland, ME 04112
Telephone: 207-871-8396

Franklin County
140 Main St
Farmington, ME 04938
Telephone: 207-778-5889

Hancock County
50 State St Suite 7
Ellsworth, ME 04605
Telephone: 207-667-8353

Kennebec County
P.O. Box 1053, 1 Weston Court
Augusta, ME 04332
Telephone: 622-0431

Knox County
P.O. Box 943
Rockland, ME 04841
Telephone: 207-594-0422

Lincoln County
P.O. Box 249
Wiscasset, ME 04578
Telephone: 207-882-7431

Oxford County (East)
P.O. Box 179
So Paris, ME 04281
Telephone: 207-743-6211

Oxford County (West)
38 Portland St
Fryeburg, ME 04037
Telephone: 207-935-2565

Penobscot County
P.O. Box 2070
Bangor, ME 04402
Telephone: 207-942-8797

Piscataquis County
159 E Main St
Dover-Foxcroft, ME 04426
Telephone: 207-564-2411

Sagadahoc County
P.O. Box 246, 752 High St
Bath, ME 04530
Telephone: 207-443-8214

Somerset County
P.O. Box 248
Skowhegan, ME 04976
Telephone: 207-474-3421

Waldo County
173 Church St
Belfast, ME 04915
Telephone: 207-338-1710

Washington County
P.O. Box 297, 47 Court St
Machias, ME 04654
Telephone: 207-255-6512

York County
P.O. Box 339, 45 Kennebunk Rd
Alfred, ME 04002
Telephone: 207-324-1576

MAINE REVENUE SERVICES PROPERTY TAX DIVISION

Laws Relating to Real Estate Transfers

*Title 36 MRSA, Section 4641
Effective December 1, 2005
(Published Under Appropriation No. 1037.1)*



14 Edison Drive
P.O. Box 9106
Augusta, Maine 04332
207-287-2013

www.maine.gov/revenue/propertytax

TITLE 36 MRSA §4641

§4641. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Consideration. "Consideration" means the total price or amount paid, or required to be paid, for real property valued in money, whether received in money or otherwise and includes the amount of any mortgages, liens or encumbrances thereon, regardless of whether the underlying indebtedness is assumed by the grantee.

1-A. Controlling interest. "Controlling interest" means the following.

- A. In the case of a corporation, "controlling interest" means more than 50% of the total combined voting power of all classes of stock of the corporation entitled to vote or more than 50% of the capital, profits or beneficial interest in the voting stock of the corporation.
- B. In the case of a partnership, association, trust or other entity, "controlling interest" means more than 50% of the capital, profits or beneficial interest in the partnership, association, trust or other entity.
- C. For purposes of the tax imposed by section 4641-A, subsection 2, all acquisitions of persons acting in concert are aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The State Tax Assessor shall adopt standards by rule to determine when persons are acting in concert. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. In adopting a rule for this purpose, the assessor shall consider the following:
 - (1) Persons must be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and
 - (2) When persons are not commonly owned or controlled, they must be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, the acquisitions must be considered separate acquisitions.

2. Deed. "Deed" means a written instrument whereby the grantor conveys to the grantee title in whole or in part to real property.

CALCULATING THE TRANSFER TAX

The Real Estate Transfer Tax Form, a.k.a. Declaration of Value, may be obtained at the County Register of Deeds or by contacting our office at 207-287-2013.

The transfer tax is calculated at \$2.20 per \$500 of fractional value and is imposed half on the grantee and half on the grantor. The tax is collected at the County Register of Deeds at the same time as the recording of the deed.

VALUE ROUNDED UP TO THE NEXT \$500 + 500 x 2.20 = TRANSFER TAX

EXAMPLE: Real Estate sells for \$88,200 in an arms length transaction

\$88,200 rounded up to \$88,500 + 500 X 2.20 = \$389.40

Grantee pays \$194.70
Grantor pays \$194.70

EXAMPLE: Real Estate sells for \$40,000 between siblings and the local 100% assessment is \$123,900

\$123,900 rounded up to \$124,000 + 500 X 2.20 = \$545.60

Grantee pays \$272.80
Grantor pays \$272.80

EXAMPLE: Real Estate is gifted to a cousin and the local 100% assessment is \$3,100

\$3,100 rounded up to \$3,500 + 500 X 2.20 = \$15.40

Grantee pays \$15.40
Grantor pays \$15.40

If either grantee or grantor is exempt from paying the transfer tax in accordance with section 4641C, then a specific explanation must be entered in the claim field of the transfer tax form and additional information may be required.

Please do not hesitate to contact our office if you have any questions regarding the tax calculation or general interpretation of the law.

§4641-L. No effect on recordation

Failure to comply with the requirements of this chapter does not affect the validity of any recorded instrument or the validity of any recordation or transfer of a controlling interest.

§4641-N. Review

The Maine State Housing Authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation by April 1, 1987, and each 2 years thereafter. The report shall cover the 2 prior fiscal years of the authority and shall identify the amount of revenues under this chapter that have been credited to the Housing Opportunities for Maine Fund and the manner in which those funds have been used. The committee shall review that report by May 1st of the year in which it is received.

2-A. Real property. "Real property" means land or anything affixed to land. "Real property" includes, but is not limited to, improvements such as buildings, mobile homes other than stock-in-trade, lines of electric light and power companies and pipelines and other things constructed or situated on land when the owner of the improvements is not the landowner.

3. Value. "Value" means the amount of the actual consideration for real property, except that in the case of a gift, or a contract or deed with nominal consideration or without stated consideration, or in the case of the transfer of a controlling interest in an entity with a fee interest in real property when the consideration for the real property cannot be determined, "value" is to be based on the estimated price a property will bring in the open market and under 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.

"Value" does not include the amount of consideration attributable to vacation exchange rights, vacation services or club memberships or the costs associated with those rights, services or memberships. Upon request of a municipal assessor of the State Tax Assessor, a developer of a time-share estate, as defined in Title 33, §591, subsection 7, or an association of time-share owners shall provide an itemized schedule of fees included in the sales price of a time-share estate.

§4641-A. Rate of tax; liability for tax

1. Deeds. A tax is imposed on each deed by which any real property in this State is transferred.

- A. The rate of the tax is \$2.20 for each \$500 or fractional part of \$500 of the value of the property transferred.
- B. The tax is imposed 1/2 on the grantor and 1/2 on the grantee.

2. Transfer of direct or indirect controlling interest in entity with interest in real property. A tax is imposed on the transfer or acquisition within any 12-month period of a direct or indirect controlling interest in any entity with a fee interest in real property in this State.

- A. The rate of the tax is \$2.20 for each \$500 or fractional part of \$500 of the value of the real property owned by the entity and located in this State.
- B. The tax is imposed 1/2 on the transferor and 1/2 on the transferee, but if the transfer or acquisition is not reported to the register of deeds in the county or counties in which the property is located and the tax is not paid within 30 days of the completion of the transfer or acquisition, the transferor and the transferee are jointly and severally liable for the full amount.

C. If a controlling interest is acquired by a series of transfers, each transferor is liable for its proportional share of tax based on the value of the property on the date of the sale.

§4641-B. Collection

1. Transfer of real property by deed. The State Tax Assessor shall provide for the collection of the tax on the transfer of real property by deed by each register of deeds and for that purpose may provide for the installation of a meter machine in each registry office. When any deed is offered for recordation, the register of deeds shall ascertain and compute the amount of tax due on the deed and shall collect that amount. The amount of tax must be computed on the value of the property as set forth in the declaration of value prescribed by section 4641-D. Payment of tax must be evidenced by affixing such indicia of payment as prescribed by the assessor to the declaration of value provided for in section 4641-D.

2. Transfer or acquisition of controlling interest in entity with fee interest in real property. A person transferring or acquiring a controlling interest in an entity with a fee interest in real property for which a deed is not given shall report the transfer or acquisition to the register of deeds in the county or counties in which the real property is located within 30 days of the transfer or acquisition on a return in the form of an affidavit furnished by the State Tax Assessor. The return must be signed by both the transferor and the transferee and accompanied by payment of the tax due. When the real property is located in more than one county, the tax must be divided among the counties in the same proportion in which the real property is distributed among the counties. Disputes between 2 or more counties as to the proper amount of tax due to them as a result of a particular transaction must be decided by the State Tax Assessor upon the written petition of an official authorized to act on behalf of any such county.

3. Disposition of funds. Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor 90% of the tax collected pursuant to this section during the previous month. The remaining 10% must be retained for the county by the register of deeds and accounted for to the county treasurer as reimbursement for services rendered by the county in collecting the tax. If the tax collected is not paid over by the 10th day of the month, the State Tax Assessor may impose interest pursuant to section 186.

4. Distribution of State's share of proceeds. The State Tax Assessor shall pay all net receipts received pursuant to this section to the Treasurer of State, and shall at the same time provide the Treasurer of State with documentation showing the amount of revenues derived from the tax imposed by section 4641-A, subsection 1 and the amount of revenues derived from the tax imposed by section 4641-A, subsection 2. The Treasurer of State shall credit 1/2 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund and shall monthly pay the remaining 1/2 of such revenues to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853, except that in fiscal year 2003-04 and fiscal year 2004-05, \$7,500,000 of the remaining 1/2 of those revenues must be transferred to the General Fund before any payments are made to the Maine State

subpoena. If the assessor determines that there is a deficiency of taxes due under this chapter, such deficiency must be assessed, together with interest and penalties, with notice to the persons liable, but no such assessment may be made more than 3 years after the date of recording or transfer.

§4641-H. Notices

Any notice required to be given by the State Tax Assessor pursuant to this chapter to any person may be served personally, or by sending the same by registered or certified mail to the person for whom it is intended, addressed to such person at the address given in the declaration of value or his last known abode.

§4641-I. Priority

The tax imposed by this chapter shall have preference in any distribution of the assets of the taxpayer.

§4641-J. Recording without tax

Any register of deeds who, upon recording any deed or receiving a report of a controlling interest upon which a tax is imposed by this chapter, fails to collect that tax or to obtain the declaration of value required by this chapter and does so with the intent of defeating the purposes of this chapter commits a civil violation for which a forfeiture not to exceed \$200 may be adjudged.

§4641-K. Falsifying declaration of value

1. Prohibition. A person may not:

- A. Knowingly falsify the declaration of value when prescribed by section 4641-D;
- B. Refuse to permit the State Tax Assessor or any of the State Tax Assessor's agents or representatives to inspect property in question or any relevant books, papers, records or memoranda within 3 years after recording or transfer of a controlling interest subject to tax under this chapter;
- C. Knowingly alter, cancel, or obliterate a part of any relevant books, papers, records or memoranda; or
- D. Knowingly make a false entry in any relevant books, papers, records or memoranda.

2. Penalties. A person who violates this section commits a Class E crime.

1. Governmental conveyances. Any conveyance by or to the United States of America, the State of Maine or any of their instrumentalities, agencies or subdivisions. For purposes of this subsection, only governmental entities are exempt from the requirement to file a declaration;

2. Mortgage. Any mortgage or mortgage discharge;

3. Partial release of mortgage. Any partial release of a mortgage deed;

4. Deed affecting previous deed. Any deed which, without additional consideration, confirms, corrects, modifies or supplements a previously recorded deed;

5. Deed dated prior to October 1, 1975. Any deed dated or acknowledged prior to October 1, 1975, and offered for recording after that date; and

6. Deed of distribution. Any deed of distribution made pursuant to Title 18-A.

If the transfer is declared not subject to the tax, the reason therefor shall be stated.

The declaration must be in a form prescribed by the State Tax Assessor, who shall provide an adequate supply of such forms to each register of deeds in the State. The State Tax Assessor shall prescribe a form for the declaration of value with regard to transfers of controlling interests subject to tax under this chapter.

The register of deeds shall transmit both copies of the declaration of value to the State Tax Assessor not later than 40 days from the date of recordation of the deed subject to the tax, or, in the case of a transfer of a controlling interest subject to tax under this chapter, no later than the 10th day of the month following the month in which the report of the transfer is received by the register of deeds.

The State Tax Assessor shall, on or before the 20th day of each month following the month of receipt, transmit one copy of each declaration of value to the assessors of the municipality or the chief assessor of a primary assessing area in which the real estate is situated.

§4641-E. Powers and duties of State Tax Assessor

The State Tax Assessor is authorized to prescribe such rules and regulations as are necessary to carry out the purposes of this chapter.

Within 3 years of the recording of a deed subject to the tax imposed by this chapter or of the date on which a transfer of a controlling interest in an entity subject to taxation under this chapter is reported to the register of deeds, the State Tax Assessor may examine any books, papers, records or memoranda of the grantor or grantee bearing upon the amount of tax payable, and may enforce that right of examination by

Housing Authority. The Treasurer of State shall credit to the General Fund all of the revenues derived from the tax imposed by section 4641-A, subsection 2.

5. Dispute regarding amount. In the event of a dispute as to the correct amount of tax, the individual seeking to record the deed may request that the State Tax Assessor determine the correct amount of tax to be paid in order for the deed to be recorded.

§4641-C. Exemptions

The following are exempt from the tax imposed by this chapter:

1. Governmental entities. Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities, agencies or subdivisions. For the purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that real property transferred to the Department of Transportation or the Maine Turnpike Authority for transportation purposes; gifts of real property to governmental entities; and deeds transferring real property to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax;

2. Mortgage deeds. Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds, deeds from a mortgagor to a mortgagee in lieu of foreclosure and deeds from a mortgagee to itself at a public sale held pursuant to Title 14, section 6323. In the event of a deed to a 3rd party at such a public sale, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds;

3. Deeds affecting a previous deed. Deeds that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded;

4. Deeds between certain family members. Deeds between husband and wife, or parent and child, without actual consideration for the deed, and deeds between spouses in divorce proceedings;

5. Tax deeds. Tax deeds;

6. Deeds of partition. Deeds of partition when the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest, a tax is due on the difference between their proportional undivided interest and the greater value, computed at the rate set forth in section 4641-A;

7. Deeds pursuant to mergers or consolidations. Deeds made pursuant to mergers or consolidations carried out pursuant to Title 13-C, chapter 11, from which no gain or loss is recognized under the Internal Revenue Code;

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

9. Deeds prior to October 1, 1975. Deeds dated or acknowledged prior to October 1, 1975, and offered for recording subsequent to that date;

10. Deeds by parent corporation. Deeds made by a parent corporation to its subsidiary corporation for no consideration other than shares of stock of the subsidiary corporation;

11. Deeds of distribution. Deeds of distribution made pursuant to Title 18-A;

12. Deeds executed by public officials. Deeds executed by public officials in the performance of their official duties;

13. Deeds of foreclosure and in lieu of foreclosure. A deed conveying real property back to a lender holding a bona fide mortgage that is genuinely in default, either by a sheriff conducting a foreclosure sale or by the mortgagor in lieu of foreclosure;

14. Deeds given pursuant to the United States Bankruptcy Code. Deeds given pursuant to the United States Bankruptcy Code;

15. Deeds to a trustee, nominee or straw. Any deeds:

- A. To a trustee, nominee or straw party for the grantor as beneficial owner;
- B. For the beneficial ownership of a person other than the grantor when, if that person were the grantee, no tax would be imposed upon the conveyance pursuant to this chapter; or
- C. From a trustee, nominee or straw party to the beneficial owner;

16. Certain corporate, partnership and limited liability company deeds. Deeds between a family corporation, partnership, limited partnership or limited liability company and its stockholders, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership, limited partnership or limited liability company under the laws of this State, if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership, limited partnership or limited liability company.

For purposes of this subsection a family corporation, partnership, limited partnership or limited liability company is a corporation, partnership, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership, limited partnership or limited liability company is held by and the majority of the stockholders, partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related;

17. Deeds to charitable conservation organizations. Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds;

18. Limited liability company deeds. Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed;

19. Change in identity or form of ownership. Any transfer of real property, whether accomplished by deed, conversion, merger, consolidation or otherwise, if it consists of a mere change in identity or form of ownership of an entity. This exemption is limited to those transfers where no change in beneficial ownership is made and may include transfers involving corporations, partnerships, limited liability companies, trusts, estates, associations and other entities; and

20. Controlling interests. Transfers of controlling interests in an entity with a fee interest in real property if the transfer of the real property would qualify for exemption if accomplished by deed of the real property between the parties to the transfer of the controlling interest.

§4641-D. Declaration of value

Except as otherwise provided in this section, any deed, when offered for recording, and any report of a transfer of a controlling interest must be accompanied by a statement or declaration prepared in duplicate and signed, subject to the penalties of perjury, by the parties to the transaction or their authorized representatives, declaring the value of the property transferred and indicating the taxpayer identification numbers of the grantor and grantee. The statement or declaration with regard to a transfer by deed must include evidence of compliance with section 5250-A and reference to the appropriate tax map and parcel number unless no tax map exists that includes that property, in which event the declaration must indicate that no appropriate tax map exists. The exceptions to the foregoing are the following: