

REVENUE ESTIMATING CONFERENCE

Tax: Documentary Stamp Tax

Issue: Spousal Transfers – All Real Property

Bill Number(s): Proposed Language

☒ **Entire Bill**

☐ **Partial Bill:**

Sponsor(s): N/A

Month/Year Impact Begins: July 1, 2018

Date of Analysis: 9/28/2017 (Revised)

Section 1: Narrative

a. Current Law: Section 201.02(1)(a), Florida Statutes, states “On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his or her direction, on each \$100 of the consideration therefor the tax shall be 70 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 70 cents for each \$100 or fractional part thereof of the consideration therefor. For purposes of this section, consideration includes, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed. If the consideration paid or given in exchange for real property or any interest therein includes property other than money, it is presumed that the consideration is equal to the fair market value of the real property or interest therein.”

Section 201.02(7), F.S., reads “Taxes imposed by this section do not apply to a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for dissolution of their marriage wherein the real property is or was their marital home or an interest therein. Taxes paid pursuant to this section shall be refunded in those cases in which a deed, transfer, or conveyance occurred 1 year before a dissolution of marriage. This subsection applies in spite of any consideration as defined in subsection (1). This subsection does not apply to a deed, transfer, or conveyance executed before July 1, 1997.”

b. Proposed Change: Amends section 201.02(7), F.S., to create a new subparagraph “(a) Taxes imposed by this section do not apply to a deed, transfer, or conveyance between spouses of real property, or an interest therein, that secures a mortgage debt or other debt. This paragraph does not apply to a deed, transfer or conveyance executed before July 1, 2018.”

Section 2: Description of Data and Sources

2015 Ad Valorem Tax Rolls

2016 Ad Valorem Tax Rolls

2017 Ad Valorem Tax Rolls (sales data files and real property rolls)

General Revenue Consensus Estimating Conference Documentary Stamp Tax Growth Rates, August 2017

Section 3: Methodology (Include Assumptions and Attach Details)

After merging the real property information into all 2016 property transfers from the sales data file, all sales that were not between related parties were removed. These were filtered out based on Sale Qualification Code 30, which is defined as a “transfer involving affiliated parties (examples: family, corporate, business, landlord-tenant).” From the remaining records, multi-parcel sales were winnowed to a single record, which was needed to avoid over-counting the documentary stamps paid in a single transaction. If one parcel in a multi-parcel sale had a homestead classification in the sale year, that parcel was kept.

Three additional filters removed any records with:

1. a sale price of \$100 or less. The documentary stamp amount is based on the consideration, which includes “the amount of any mortgage, purchase money mortgage lien, or other encumbrance,” (section 201.02(1)(a)). Properties with consideration of \$100 or less were excluded due to lack of a mortgage or other debt.
2. a governmental land use code or an exemption for constitutional charitable predominant use (under section 196.196), as these transactions could not take place between spouses.
3. any value classified as homestead (based on the value in the 2016 Just Value – Homestead field).

Flags were added to the non-homestead records based on the Owner Name fields before and after the sale. Names with words or abbreviations denoting a business are excluded from the “Natural Persons” value. Names containing “Trust” were separated into a subset.

Documentary stamp amounts were calculated from the sale price. Growth rates were taken from the General Revenue Consensus Estimating Conference in August 2017. Due to the broad definition of the Sales Qualification Code, estimates assume that some percentage of the sales took place among parties whose relationship was not spousal. The impact assumes 60% of documentary stamps paid are from transactions between spouses in the high estimate, 50% in the middle, and 20% in the low.

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The revised estimates from the proposed language for Spousal Transfers – Homestead Property was added to the non-homestead property estimate to estimate the impact for all real property.

The proposed language would take effect July 1, 2018.

Section 4: Proposed Fiscal Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2018-19	\$ (9.4 M)	\$ (9.4 M)	\$ (8.4 M)	\$ (8.4 M)	\$ (5.6 M)	\$ (5.6 M)
2019-20	\$ (9.8 M)	\$ (9.8 M)	\$ (8.7 M)	\$ (8.7 M)	\$ (5.8 M)	\$ (5.8 M)
2020-21	\$ (10.1 M)	\$ (10.1 M)	\$ (9.0 M)	\$ (9.0 M)	\$ (6.0 M)	\$ (6.0 M)
2021-22	\$ (10.5 M)	\$ (10.5 M)	\$ (9.3 M)	\$ (9.3 M)	\$ (6.2 M)	\$ (6.2 M)
2022-23	\$ (10.9 M)	\$ (10.9 M)	\$ (9.6 M)	\$ (9.6 M)	\$ (6.5 M)	\$ (6.5 M)

List of affected Trust Funds:

Documentary Stamp Trust Fund Group

Section 5: Consensus Estimate (Adopted: 09/28/2017): The Conference adopted the middle estimate for the homesteaded properties and an average of the middle and the high for all other properties. The Conference assumes interest therein means a direct interest in the real property.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2018-19	(3.3)	(3.3)	(5.0)	(5.0)	0.0	0.0	(8.3)	(8.3)
2019-20	(3.5)	(3.5)	(5.2)	(5.2)	0.0	0.0	(8.7)	(8.7)
2020-21	(3.6)	(3.6)	(5.4)	(5.4)	0.0	0.0	(9.0)	(9.0)
2021-22	(3.7)	(3.7)	(5.6)	(5.6)	0.0	0.0	(9.3)	(9.3)
2022-23	(3.8)	(3.8)	(5.8)	(5.8)	0.0	0.0	(9.6)	(9.6)

Impact Summary

	A	B	C	D	E	F	G
1	All Sales Between related parties (Qual code = 30) above De Minimus Transfer value (Revised)						
2							
3	Spousal Transfer of 2016 Homesteads Doc Stamp Impact						
4		High		Middle		Low	
5	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring
6	2018-19	\$ (4.4 M)	\$ (4.4 M)	\$ (4.2 M)	\$ (4.2 M)	\$ (3.9 M)	\$ (3.9 M)
7	2019-20	\$ (4.6 M)	\$ (4.6 M)	\$ (4.3 M)	\$ (4.3 M)	\$ (4.1 M)	\$ (4.1 M)
8	2020-21	\$ (4.7 M)	\$ (4.7 M)	\$ (4.5 M)	\$ (4.5 M)	\$ (4.2 M)	\$ (4.2 M)
9	2021-22	\$ (4.9 M)	\$ (4.9 M)	\$ (4.6 M)	\$ (4.6 M)	\$ (4.4 M)	\$ (4.4 M)
10	2022-23	\$ (5.1 M)	\$ (5.1 M)	\$ (4.8 M)	\$ (4.8 M)	\$ (4.5 M)	\$ (4.5 M)
11							
12	Spousal Transfer (All Property) Doc Stamp Impact						
13		High		Middle		Low	
14	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring
15	2018-19	\$ (9.4 M)	\$ (9.4 M)	\$ (7.5 M)	\$ (7.5 M)	\$ (5.6 M)	\$ (5.6 M)
16	2019-20	\$ (9.8 M)	\$ (9.8 M)	\$ (7.8 M)	\$ (7.8 M)	\$ (5.8 M)	\$ (5.8 M)
17	2020-21	\$ (10.1 M)	\$ (10.1 M)	\$ (8.1 M)	\$ (8.1 M)	\$ (6.0 M)	\$ (6.0 M)
18	2021-22	\$ (10.5 M)	\$ (10.5 M)	\$ (8.4 M)	\$ (8.4 M)	\$ (6.2 M)	\$ (6.2 M)
19	2022-23	\$ (10.9 M)	\$ (10.9 M)	\$ (8.7 M)	\$ (8.7 M)	\$ (6.5 M)	\$ (6.5 M)

Homestead Transfers

	A	B	C	D	E	F	G
1	All Homestead Sales Between Related Parties (Sale Qualification Code = 30) above De Minimis Transfer Value						
2	Homestead as of January 1 2016 . Sales data and Doc Stamps Paid from 2016 sales.						
3							
4	Natural Person	Trust (1=Trust in name)	Sum of Doc Stamps Paid	Sum of Sales Price	Count		
5	0	0	\$ 206,450	\$ 29,935,906	164		
6	0	1	\$ 9,156	\$ 1,308,000	7		
7	1	0	\$ 3,899,588	\$ 566,008,548	4,488		
8	1	1	\$ 232,511	\$ 33,215,793	155		
9							
10	Total Homestead Doc Stamp		\$ 4,347,705				
11	Homestead Doc only Natural Person		\$ 4,132,099				
12	Homestead Doc Natural Person no Trusts		\$ 3,899,588				
13							
14	Doc Stamp CY Growth Rates (calculated from GR 8/17)		CY Documentary Stamps				
15	2017	5.25%	\$ 4,349,034				
16	2018	4.15%	\$ 4,529,519				
17	2019	3.85%	\$ 4,703,905				
18	2020	3.65%	\$ 4,875,598				
19	2021	3.60%	\$ 5,051,119				
20	2022	3.55%	\$ 5,230,434				
21	2023	3.45%	\$ 5,410,884				
22							
23	Homestead Doc Stamp converted CY to FY						
24		95%	90%	85%			
25		High	Middle	Low			
26	2017-18	\$ 4,217,313	\$ 3,995,349	\$ 3,773,385			
27	2018-19	\$ 4,385,876	\$ 4,155,041	\$ 3,924,205			
28	2019-20	\$ 4,550,264	\$ 4,310,776	\$ 4,071,289			
29	2020-21	\$ 4,715,191	\$ 4,467,023	\$ 4,218,855			
30	2021-22	\$ 4,883,738	\$ 4,626,699	\$ 4,369,660			
31	2022-23	\$ 5,054,626	\$ 4,788,593	\$ 4,522,560			
32							
33							
34	Doc Stamp Exemption for Homesteads Impact						
35		High	Middle	Low			
36	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring
37	2018-19	\$ (4.4 M)	\$ (4.4 M)	\$ (4.2 M)	\$ (4.2 M)	\$ (3.9 M)	\$ (3.9 M)
38	2019-20	\$ (4.6 M)	\$ (4.6 M)	\$ (4.3 M)	\$ (4.3 M)	\$ (4.1 M)	\$ (4.1 M)
39	2020-21	\$ (4.7 M)	\$ (4.7 M)	\$ (4.5 M)	\$ (4.5 M)	\$ (4.2 M)	\$ (4.2 M)
40	2021-22	\$ (4.9 M)	\$ (4.9 M)	\$ (4.6 M)	\$ (4.6 M)	\$ (4.4 M)	\$ (4.4 M)
41	2022-23	\$ (5.1 M)	\$ (5.1 M)	\$ (4.8 M)	\$ (4.8 M)	\$ (4.5 M)	\$ (4.5 M)

Non-Homestead Transfers

	A	B	C	D	E	F	G
1	All Non-Homestead Sales Between Related Parties (Sale Qualification Code = 30) above De Minimus Transfer Value						
2	Non-Homestead as of January 1, 2016 . Sales data and Doc Stamps Paid from 2016 sales.						
3							
4	Natural Person	Trust (1=Trust in name)	Sum of Doc Stamps Paid	Sum of Sales Price	Count		
5	0	0	\$ 18,500,514	\$ 2,697,022,804	4,701		
6	0	1	\$ 685,148	\$ 97,988,742	302		
7	1	0	\$ 6,573,745	\$ 950,489,472	6,232		
8	1	1	\$ 936,510	\$ 133,787,137	519		
9							
10	Total Non-Homestead Doc Stamp		\$ 26,695,917				
11	Non-Homestead Doc only Natural Person		\$ 7,510,255				
12	Non-Homestead Doc Natural Person no Trusts		\$ 6,573,745				
13							
14	Doc Stamp CY Growth Rates (calculated from GR 8/17)		CY Documentary Stamps				
15	2017	5.25%	\$ 7,904,543				
16	2018	4.15%	\$ 8,232,582				
17	2019	3.85%	\$ 8,549,536				
18	2020	3.65%	\$ 8,861,594				
19	2021	3.60%	\$ 9,180,612				
20	2022	3.55%	\$ 9,506,523				
21	2023	3.45%	\$ 9,834,498				
22							
23	Non-Homestead Doc Stamp converted CY to FY						
24		60%	40%	20%			
25		High	Middle	Low			
26	2017-18	\$ 4,841,138	\$ 3,227,425	\$ 1,613,713			
27	2018-19	\$ 5,034,635	\$ 3,356,424	\$ 1,678,212			
28	2019-20	\$ 5,223,339	\$ 3,482,226	\$ 1,741,113			
29	2020-21	\$ 5,412,662	\$ 3,608,441	\$ 1,804,221			
30	2021-22	\$ 5,606,140	\$ 3,737,427	\$ 1,868,713			
31	2022-23	\$ 5,802,307	\$ 3,868,204	\$ 1,934,102			
32							
33							
34	Doc Stamp Exemption for Non-Homestead Impact						
35		High	Middle	Low			
36	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring
37	2018-19	\$ (5.0 M)	\$ (5.0 M)	\$ (3.4 M)	\$ (3.4 M)	\$ (1.7 M)	\$ (1.7 M)
38	2019-20	\$ (5.2 M)	\$ (5.2 M)	\$ (3.5 M)	\$ (3.5 M)	\$ (1.7 M)	\$ (1.7 M)
39	2020-21	\$ (5.4 M)	\$ (5.4 M)	\$ (3.6 M)	\$ (3.6 M)	\$ (1.8 M)	\$ (1.8 M)
40	2021-22	\$ (5.6 M)	\$ (5.6 M)	\$ (3.7 M)	\$ (3.7 M)	\$ (1.9 M)	\$ (1.9 M)
41	2022-23	\$ (5.8 M)	\$ (5.8 M)	\$ (3.9 M)	\$ (3.9 M)	\$ (1.9 M)	\$ (1.9 M)