

## West's Florida Statutes Annotated

## Title XIV. Taxation and Finance (Chapters 192-221) (Refs &amp; Annos)

## Chapter 201. Excise Tax on Documents (Refs &amp; Annos)

## West's F.S.A. § 201.08

201.08. Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception

Effective: July 1, 2005

[Currentness](#)

(1)(a) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, the tax shall be 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. The tax on any document described in this paragraph may <sup>1</sup> not exceed \$2,450.

(b) On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, the tax shall be 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. Mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid on the mortgage, trust deed, or security agreement. If a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in this state to evidence an indebtedness or obligation upon which tax was paid under paragraph (a) or subsection (2), <sup>2</sup> tax shall be paid on the mortgage, trust deed, security agreement, or other evidence of indebtedness on the amount of the indebtedness or obligation evidenced which exceeds the aggregate amount upon which tax was previously paid under this paragraph and under paragraph (a) or subsection (2). <sup>2</sup> If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in [s. 697.04](#), the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforesaid general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by [s. 697.04](#), but any person who fails or refuses to pay such tax due by him or her is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

(2)(a) On promissory notes, nonnegotiable notes, written obligations to pay money, or other compensation, made, executed, delivered, sold, transferred, or assigned in the state, in connection with sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser, the tax shall be 35 cents on each \$100 or fraction thereof of the gross amount of the indebtedness evidenced by such instruments, payable quarterly on such forms and under such rules and regulations as may be promulgated by the Department of Revenue. The tax on any document described in this paragraph may <sup>1</sup> not exceed \$2,450.

(b) Any receipt, charge slip, or other record of a transaction effected with the use of a credit card, charge card, or debit card shall be exempt from the tax imposed by this section.

(3) No tax shall be required on promissory notes executed for students to receive financial aid from federal or state educational assistance programs, from loans guaranteed by the Federal Government or the state when federal regulations prohibit the assessment of such taxes against the borrower, or for any financial aid program administered by a state university or community college, and the holders of such promissory notes shall not lose any rights incident to the payment of such tax.

(4) Notwithstanding paragraph (1)(b), a supplement or an amendment to a mortgage, deed of trust, indenture, or security agreement, which supplement or amendment is filed or recorded in this state in connection with a new issue of bonds, shall be subject to the tax imposed by paragraph (1)(b) only to the extent of the aggregate amount of the new issue of bonds or other evidence of indebtedness and not to the extent of the aggregate amount of bonds or other evidence of indebtedness previously issued under the instrument being supplemented or amended. In order to qualify for the tax treatment provided for in this subsection, the document which evidences the increase in indebtedness must show the official records book and page number in which, and the county in which, the original obligation and any prior increase in that obligation were recorded.

(5) For purposes of this section, a renewal shall only include modifications of an original document which change the terms of the indebtedness evidenced by the original document by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms. Modifications to documents which do not modify the terms of the indebtedness evidenced such as those given or recorded to correct error; modify covenants, conditions, or terms unrelated to the debt; sever a lien into separate liens; provide for additional, substitute, or further security for the indebtedness; consolidate indebtedness or collateral; add, change, or delete guarantors; or which substitute a new mortgagee or payee are not renewals and are not subject to tax pursuant to this section. If the taxable amount of a mortgage is limited by language contained in the mortgage or by the application of rules limiting the tax base when there is collateral in more than one state, then a modification which changes such limitation or tax base shall be taxable only to the extent of any increase in the limitation or tax base attributable to such modification. This subsection shall not be interpreted to exempt from taxation an original mortgage that would otherwise be subject to tax pursuant to paragraph (1)(b).

(6) Taxability of a document pursuant to this section shall be determined solely from the face of the document and any separate document expressly incorporated into the document. Taxability of a document pursuant to this section shall not be determined by reference to any separate document referenced or forming part of the same contract or obligation unless the separate document is expressly incorporated into the document. When multiple documents evidence, secure, or form part of the same primary debt, tax pursuant to this section shall not be imposed more than once, on the total indebtedness evidenced, notwithstanding the existence of multiple documents.

(7) A mortgage, trust deed, or security agreement filed or recorded in this state which is given by a taxpayer different than or in addition to the taxpayer obligated upon the primary note, certificate of indebtedness, or obligation, or which is given to secure a guaranty or surety of a primary note, certificate of indebtedness, or obligation, shall for purposes of this section be deemed to evidence and secure the primary note, certificate of indebtedness, or obligation, not a separate obligation, and to the extent that tax is paid on any document evidencing or securing the primary note, certificate of indebtedness, or obligation, such tax shall be paid once, notwithstanding that more than one mortgage, trust deed, or security agreement is recorded with respect to such note, certificate of indebtedness, or obligation.

(8)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to [s. 721.08](#), tax on notes or other written obligations and mortgages or other evidences of indebtedness executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The note, other written obligation, mortgage, or other evidence of indebtedness is recorded or filed in this state; or
2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to [s. 721.08\(2\)\(c\)](#) have been met, regardless of whether the developer has posted an alternative assurance. Tax due under this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b) 1. If tax has been paid to the department pursuant to subparagraph (a)2., and the note, other written obligation, mortgage, or other evidence of indebtedness with respect to which the tax was paid is subsequently recorded or filed in this state, a notation reflecting the prior payment of the tax must be made upon the note, other written obligation, mortgage, or other evidence of indebtedness recorded or filed in this state.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but the note, other written obligation, mortgage, or other evidence of indebtedness with respect to which the tax was collected has not been recorded or filed in this state, the tax shall be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow, unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

#### Credits

Laws 1931, Ex.Sess., c. 15787, § 1; Comp.Gen.Laws Supp.1936, § 1279 (111); Laws 1953, c. 28216, § 1; Laws 1961, c. 61-277, §§ 1, 2; Laws 1963, c. 63-533, § 5; Laws 1969, c. 69-106, §§ 21, 35; Laws 1977, c. 77-57, § 2; Laws 1977, c. 77-414, § 2; Laws 1979, c. 79-222, § 105; Laws 1979, c. 79-350, § 6; Laws 1979, c. 79-400, § 91; Laws 1980, c. 80-220, § 1; Laws 1982, c. 82-83, § 7; Laws 1983, c. 83-207, § 1; Laws 1983, c. 83-267, § 8; Laws 1983, c. 83-311, § 7; Laws 1985, c. 85-80, § 28; Laws 1985, c. 85-196, § 13. Amended by [Laws 1990, c. 90-132, § 10, eff. July 1, 1990](#); [Laws 1992, c. 92-317, § 7, eff. Aug. 1, 1992](#); [Laws 1996, c. 96-245, § 1, eff. May 28, 1996](#); [Laws 1996, c. 96-395, § 8, eff. April 1, 1997](#); [Laws 1997, c. 97-123, § 2, eff. July 1, 1997](#); [Laws 2002, c. 2002-26, § 1, eff. July 1, 2002](#); [Laws 2002, c. 2002-218, § 9, eff. May 1, 2002](#); [Laws 2005, c. 2005-280, § 5, eff. July 1, 2005](#).

#### Notes of Decisions (156)

#### Footnotes

- 1 As amended by Laws 2002, c. 2002-26, § 1. The amendment by Laws 2002, c. 2002-218, § 9, substitutes the word “shall” for the word “may.”
- 2 As amended by Laws 2002, c. 2002-26, § 1. The amendment by Laws 2002, c. 2002-218, § 9, cites to paragraph (2)(a).

West's F. S. A. § 201.08, FL ST § 201.08

Current through the 2019 First Regular Session of the 26th Legislature.