

NOTICE OF PROPOSED GUIDANCE DOCUMENT

Real Estate Transfer Return

Pursuant to s. 227.112, Wis. Stats., the Wisconsin Department of Revenue is hereby seeking comment on the following proposed Real Estate Transfer Return guidance.

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PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to Wisconsin Department of Revenue until August 12, 2019 by:
Emailing bapdor@wisconsin.gov

LOCATION OF GUIDANCE

The final version of the guidance documents will be posted to allow for ongoing comment: <https://www.revenue.wi.gov/Pages/RETr/Home.aspx>

AGENCY CONTACT PERSON

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State of Wisconsin
Department of Revenue

Certification Statement

As the Secretary of the Wisconsin Department of Revenue (DOR), I certify the guidance document(s) attached or referenced hereto under sec. 227.112(6), Wis. Stats.:

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE

A large, handwritten signature in black ink that reads "Peter W. Barca". The signature is written in a cursive style with a large, looped initial "P".

Peter Barca
Secretary of Revenue

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September 19, 2016

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Real Estate Transfer Fee Law Change - 2015 WI Act 295

July 1, 2016

TO: County Register of Deeds

Real Property Listers

Municipal Clerks and Treasurers

County Clerks and Treasurers

Subject: Real Estate Transfer Fee Law Change - 2015 WI Act 295

The Wisconsin Department of Revenue (DOR) would like to inform you that Governor Walker signed a new bill into law ([2015 Act 295](#)) on March 30, 2016. This bill modified three existing exemptions and created two new exemptions from Real Estate Transfer Fee. This act is effective today, July 1, 2016.

Existing exemptions modified under [sec. 77.25](#), Wis. Stats. include:

- (6) - pursuant to mergers of entities
- (6d) - pursuant to partnerships filing or canceling a statement of qualification under [sec. 178.0901](#) or a corresponding statement under the law of another jurisdiction
- (6m) - pursuant to the conversion of a business entity to another form of business entity under secs. [178.1141](#), [179.76](#), [180.1161](#), [181.1161](#), or [183.1207](#), if, after the conversion, the ownership interests in the new entity are identical with the ownership interests in the original entity immediately preceding the conversion

Exemptions created under [sec. 77.25](#), Wis. Stats. include:

- (6q) - pursuant to an interest exchange under [sec. 178.1131](#)
- (6t) - pursuant to a domestication under [sec. 178.1151](#)

DOR updated the electronic Real Estate Transfer Return (eRETR) form and [instructions](#) to include these law changes.

If you have questions, review our updated [Real Estate Transfer Fee Common Questions](#) or contact us at DORERealEstateTransfer@wisconsin.gov.

Thank you

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Department of Revenue

Real Estate Transfer Return Law Changes

March 14, 2016

TO: General Assessors, Certified Assessors, County Register of Deeds, Real Property Listers, Clerks and Treasurers

Subject: Real Estate Transfer Return Law Changes

Governor Walker signed the following acts into law:

- 2015 Wisconsin Act 145 (Act 145) on February 6, 2016
- 2015 Wisconsin Act 216 (Act 216) on March 3, 2016

Under these acts, all conveyance (transfer of ownership) documents presented for recording at a Register of Deeds office must include a real estate transfer return. There are two exceptions under state law (secs. 77.25(1) and 77.25(10m), Wis. Stats., which are for conveyances made before October 1, 1969 and conveyances that solely designate a TOD beneficiary under sec. 705.15.

Conveyances needing a real estate transfer return

The following conveyances, which were once exempt, now must have a real estate transfer return, although they remain exempt from fee under sec. 77.25, Wis. Stats.:

- (2) From the United States or from this state or from any instrumentality, agency or subdivision of either
- (2r) Under s. 236.29(1) or (2) or 236.34(1m)(e) or for the purpose of a road, street, or highway, to the United States or to this state or to any instrumentality, agency, or subdivision of either
- (4) On sale for delinquent taxes or assessments
- (11) By will, descent or survivorship

Termination of Decedent's Property Interest Form

We received questions about a Termination of Decedent's Property Interest Form (HT-110). Filing this form meets the conveyance definition since it is passing ownership interest in real estate by "descent or survivorship" (sec. 77.25(11), Wis. Stats.). A real estate transfer return must be filed at a Register of Deeds office when terminating a life estate or joint tenancy interest.

If you have any further questions, review the [Real Estate Transfer Fee Common Questions](#) or contact us at DORERealEstateTransfer@wisconsin.gov.

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Register of Deeds Criteria for an Electronic Real Estate Transfer Return

Introduction:

Real Estate Transfer information is used by assessors, other municipal and county officials, and DOR. Sec. 77.22(1), Wis. Stats., states "...submission of a completed real estate transfer return and collection by the register of the fee shall be prerequisites to acceptance of the conveyance for recording." A Register's refusal to record an instrument, which conveys an interest in real estate, is a matter of considerable consequence. In general, *all required fields* of the eRETR are complete before a return can be "Submitted" eliminating the Register of Deeds to verify completion of all data fields.

The following guideline will assist in determining whether a particular Electronic Real Estate Transfer Return (eRETR) Receipt warrants rejection of a conveyance from recordation.

eRETR Receipt Review per sec. 77.22(1), Wis. Stats.:

1. Ensure that the Receipt belongs to the document being recorded and is in the proper county as you will not be able to "Add recording information" if the Receipt and document are for another county.
2. **All items:** Document to be recorded, Receipt, payment (if due), weatherization papers (if needed). The Receipt, under Instruction 2 will have a list of the items needed.
3. **Date of conveyance**, must be **ON** or **BEFORE** the date of recording.
4. **Transfer fee amount**, if due, is the same as the amount on the check or other method of payment. Note for some transfers, there may be a fee due and an exemption.
5. **All grantors and grantees** named on the document are on the Receipt. Exceptions:
 - a. Husband and wife with the same last name may have both first names on the first name line and only one social number is required.
 - b. Middle initials are not a required entry field and do not have to be on the Receipt.
6. **All parcels** listed on the document are on the Receipt. When there are five or fewer parcels, each must be listed in a separate parcel section (Add Parcel). When there are more than five, the first five must be listed separately under "Parcels" and the remainder may be listed separately here or listed under the "Short legal description". If your county does not require parcel numbers on the document (they are required on the return), you can verify the property using the legal description. The return does not require a legal description when the

Subdivision/Condominium section is completed, unless there are more than five parcels and the additional parcels are listed here.

Immediate Rejection:

If any information on the Receipt has been changed in any way, such as being crossed out or white out, with information inserted or added, REJECT the recording. Changing information on the RECEIPT creates an inconsistency with the information on the eRETR. It is acceptable to have signatures or initials written on the Receipt, so long as the data is not changed in any way.

No Attachments:

All data such as a complete legal description, all grantors, and all grantees must be entered on eRETR.

Optional eRETR Receipt Review:

The following items are not "rejects." However; they may result in an audit by DOR.

1. Does the tax bill address appear correct and consistent with the grantee's or agent's information?
2. Does the transfer fee exemption appear correct? Generally, exemptions 2 and 8m will apply when the type of transfer is a sale and an exemption is taken.

When ready to "Add recording information to an eRETR filing:"

1. Go to DOR's eRETR website at <https://www.revenue.wi.gov/Pages/RETr/Home.aspx>.
2. Log in at eRETR under Assessor and Government Offices.
3. Select "Add recording information."
 - a. *VERIFY* the document number and the date recorded before submitting data.

February 13, 2012

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Real Estate Transfer Fee Common Questions - A

Adverse Possession

If a court ordered judgment awards the plaintiff's property due to adverse possession, does this need a transfer return?

Agent

1. When am I required to complete the agent section of the transfer return?
2. If the grantor is an entity (ex: trust, LLC, partnership), do I need to complete the agent section of the return?

Agent to Principal

Buyer A and Buyer C intend to purchase two adjacent lots from Seller B. Because A and C do not want B to know that C is buying Lot 2, A enters into a purchase agreement to buy the two adjacent lots from B and immediately transfers Lot 2 to C. Can a transfer fee be avoided on the conveyance from A to C?

Air Rights/Aviation Easement

1. Is there a fee due on the sale of "air rights" over land?
 2. Is there a transfer fee due on the sale of an "aviation easement?"
-

Adverse Possession

If a court ordered judgment awards the plaintiff's property due to adverse possession, does this need a transfer return?

Yes. An action of adverse possession or "quiet title" is referred to as a declaration of interest in real property. This legal action is a correction to clarify existing property interests and is exempt from a transfer fee under state law (sec. 77.25(3), Wis. Stats.) (Exemption 3). The previous document that is being corrected, is the document where the grantee originally took title to the real estate or claimed to have an interest in the real estate.

Agent

1. **When am I required to complete the agent section of the transfer return?**

Whenever the grantor or grantee is not an individual, the agent section must be completed (ex: Sheriff, Fiduciary). Enter the information of the person signing the documents for the grantor and person accepting the documents for the grantee. For a trust, enter the trust name as grantor or grantee and the trustee for the agent. When there is more than one entity grantor or grantee and they each have different agents, enter the data for the first grantor or grantee listed. If the agent for additional grantors or grantees is different, enter that information on the Legal Description Page of the eRETR. If the Wisconsin Department of Revenue has questions about the conveyance, we must be able to directly contact the person familiar with the conveyance. A generic phone number or address of an entity is not sufficient.

2. If the grantor is an entity (ex: trust, LLC, partnership), do I need to complete the agent section of the return?

Yes. The person signing for the entity must complete the grantor agent portion of the return.

Agent to Principal

Buyer A and Buyer C intend to purchase two adjacent lots from Seller B. Because A and C do not want B to know that C is buying Lot 2, A enters into a purchase agreement to buy the two adjacent lots from B and immediately transfers Lot 2 to C. Can a transfer fee be avoided on the conveyance from A to C?

If A and C have an agency agreement between them, this is an "agent to principal" transaction and could be exempt from fee under state law (sec. 77.25(9), Wis. Stats.). The use of Exemption 9 also requires the conveyance to be for "no consideration." If A transfers Lot 2 immediately after taking title from B and does not benefit from having held title other than be compensated for their time involved with the transactions, then Exemption 9 would apply.

Air Rights/Aviation Easement

1. Is there a fee due on the sale of "air rights" over land?

Yes. The sale of air rights is a sale of real estate as defined under state law (sec. 77.21(1), Wis. Stats.), and is subject to transfer return and fee. The definition under sec. 990.01(35), Wis. Stats. and 63 Am. Jur. 2d Property § 14, states: land extends from the surface downward to the center of the earth and upward indefinitely to the skies. Modern courts have recognized that this must be balanced with the right of flight.

2. Is there a transfer fee due on the sale of an "aviation easement?"

- No. An "aviation easement" just grants the "right-of-flight" and the "right to restrict..." to the grantee (airport) - not "possession" by the grantee
- Since it is not a conveyance of a real property interest as defined under state law (sec. 77.21(1) & (1m), Wis. Stats.), it is not subject to:
 - Filing a transfer return imposed under state law (sec. 77.22(1), Wis. Stats.)
 - A transfer fee imposed under state law (sec. 77.22(1), Wis. Stats.)

- o To exempt an aviation easement from transfer return and transfer fee, include the following language below the legal description:
 "This is the sale of an aviation easement only and is therefore not a conveyance as defined by state law (sec. 77.21(1), Wis. Stats.), and is exempt from transfer return and fee imposed under state law (sec. 77.22(1), Wis. Stats.)."

FOR MORE INFORMATION CONTACT:

MS 6-97

WISCONSIN DEPARTMENT OF REVENUE

Local Government Services Bureau

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Phone: (608) 264-6885 or (608) 266-1594

Fax: (608) 264-6897

Email additional questions to DORERealEstateTransfer@wisconsin.gov

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- [Agent](#)
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Real Estate Transfer Fee Common Questions - B

Bankruptcy

1. Is a bankruptcy-ordered real estate conveyance exempt from a transfer fee?
2. Is a sale that is part of a confirmed plan of reorganization under 11 U.S.C. § 1146(a) and is approved by the court, exempt from a transfer fee?

Boyfriend/Girlfriend

1. A girlfriend and boyfriend purchased a house together. The mortgage is in the boyfriend's name and is more than the value of the real estate. Title is in both names. Girlfriend is signing over her half interest to the boyfriend. Are a return and a transfer fee due?

Bankruptcy

1. **Is a bankruptcy-ordered real estate conveyance exempt from a transfer fee?**

No. Under state administrative rule (sec. Tax 15.03(10), Wis. Adm. Code), a conveyance order by the bankruptcy court is subject to transfer fee.

2. **Is a sale that is part of a confirmed plan of reorganization under 11 U.S.C. § 1146(a) and is approved by the court, exempt from a transfer fee?**

- o Yes. According to 11 U.S.C. § 1146(a), Chapter 11 of the United States Bankruptcy Code, "the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title, may not be taxed under any law imposing a stamp tax or similar tax."
- o For the sale to be exempt from a transfer fee, it must occur AFTER the Bankruptcy Court confirms the plan. To complete the transfer return, use state law (sec. 77.25(14), Wis. Stats.), for the exemption from fee. For "Type of Transfer," check "Other" and provide the explanation "Sale pursuant to an approved plan under Chapter 11 of the Bankruptcy Code which is not subject to tax as stated in 11 U.S.C. § 1146(a)."

Boyfriend/Girlfriend

1. **A girlfriend and boyfriend purchased a house together. The mortgage is in the boyfriend's name and is more than the value of the real estate. Title is in both names. Girlfriend is signing over her half interest to the boyfriend. Are a return and a transfer fee due?**

Yes. A deed and an eRETR must be completed to convey title to real estate. There is no exemption for this conveyance. A transfer fee is due on half the total value of the real estate conveyed since only a half interest is being conveyed.

FOR MORE INFORMATION CONTACT:

MS 6-97

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Real Estate Transfer Fee Common Questions - C

Chapter 128 - Receivership Sale

1. Is the sale from a Chapter 128 (Wis. Stats.) receiver exempt from transfer fee?
2. If an improper exemption from transfer fee is claimed or the value subject to transfer fee is under reported, is the Chapter 128 receiver liable for a Real Estate Transfer Fee assessment?

Condos (Condominiums, Dockominiums, Garageominiums)

1. Does a condo declaration amendment that relocates the boundaries between adjoining units require a transfer return?
2. If a condominium sells its units as "life estates" for \$100,000 and at the time of sale, it also signs a "Repurchase Agreement" whereby the condominium will purchase the "life estates" back for 90 percent of the \$100,000. What transfer fees are due and at what values?
3. A condominium is selling its units as a 75-year lease for \$100,000. Is a transfer return and fee due?

Confidentiality

1. What precautions does the Wisconsin Department of Revenue (DOR) take to ensure the confidentiality of transfer returns when authorized individuals inspect them?

Conversions (MC-500 Report Requirements)

1. What are the filing requirements for mergers or conversions with an effective date of July 1, 2016 or after, under state law (sec. 73.14, Wis. Stats.)?
2. What are the filing requirements for mergers or conversions with an effective date prior to July 1, 2016, under state law (sec. 73.14, Wis. Stats.)?

Corporations

1. What is the 3-year requirement for the exemption in state law (sec. 77.25(15), Wis. Stats.), for corporations?
2. If a corporation deeds its property to the corporation's president for no consideration, does a transfer fee apply?

Corrections (before Register of Deeds records the eRETR)

1. Can you describe the RETR correction procedure?
2. If I do not have a document number, how do I file an Amended Real Estate Transfer Return (PE-500x)?

Corrections (after Register of Deeds records the eRETR)

1. How should I complete a transfer return when a deed is recorded correcting or reforming a previously recorded deed?
2. How do I correct a transfer return after the Register of Deeds records it?

Correction Instrument/Affidavit of Correction

1. If I record a Correction Instrument/Affidavit of Correction instead of re-recording a previously recorded deed, do I need to file a transfer return
-

Chapter 128 - Receivership Sale

1. **Is the sale from a Chapter 128 (Wis. Stats.) receiver exempt from transfer fee?**

If the sale is to a:

- o Mortgage holder of record, then it is exempt from transfer fee. Exemption 14 applies.
- o Third-party with no prior interest in the mortgage, then it is not exempt and a transfer fee is due on the sale price. If the sale is nominal, the fee is due on the real estate's fair market value.

2. **If an improper exemption from transfer fee is claimed or the value subject to transfer fee is under reported, is the Chapter 128 receiver liable for a Real Estate Transfer Fee assessment?**

Yes. Under state law (sec. 128.19(1), Wis. Stats.), the "receiver" is vested by operation of law with the title of the debtor. Therefore, the receiver is the grantor of the real estate. Under state law (sec. 77.22(1), Wis. Stats.), a transfer fee is imposed on the grantor of real estate.

Condos (Condominiums, Dockominiums, Garageominiums)

1. **Does a condo declaration amendment that relocates the boundaries between adjoining units require a transfer return?**

Yes. A transfer return is required. A deed and an eRETR must be completed to convey title to real estate. There is no exemption for this conveyance.

2. **If a condominium sells its units as "life estates" for \$100,000 and at the time of sale, it also signs a "Repurchase Agreement" whereby the condominium will purchase the "life estates" back for 90 percent of the \$100,000. What transfer fees are due and at what values?**

When recording the life estate, a transfer fee is due on the \$100,000. A life estate is a conveyance of real property interest. Additionally, the "repurchase" is subject to fee on the amount paid to buy back the life estate when the instrument terminating the life estate is recorded. The value of the "repurchase" is determined by state law (sec. 77.21(3)(a), Wis. Stats.), as "the amount of the full actual consideration paid therefore or to be paid, including the amount of any lien or liens thereon."

3. **A condominium is selling its units as a 75-year lease for \$100,000. Is a transfer return and fee due?**

No. A lease less than 99 years is not a conveyance of real property per state law (sec. 77.21(1), Wis. Stats.). The document recorded should include this statement, "This is a lease less than 99 years and therefore is not a conveyance as defined by sec. 77.21(1), Wis. Stats. This lease is exempt from return and fee imposed under sec. 77.22(1), Wis. Stats." The filer, not the Register of Deeds, must exempt the document.

Confidentiality

1. **What precautions does the Wisconsin Department of Revenue (DOR) take to ensure the confidentiality of transfer returns when authorized individuals inspect them?**

Under state law (sec. 77.265, Wis. Stats.), transfer returns and the information contained in the returns can be disclosed to:

- Local assessors, their agents or employees
- County property lister, treasurer and register of deeds
- Employees of governmental agencies acquiring real property for public purposes
- Department of Workforce Development under sec. 106.50, Wis. Stats.
- Property owners or their agents in condemnation proceedings or in appeals of their property tax assessment
- A county that would like the returns to develop a tract index if the county does not reveal the Social Security Numbers of the buyers and sellers

DOR may make all information from transfer returns (except Social Security Numbers, phone numbers and email addresses) available to the public:

- If you visit a property tax district office to view a transfer return, you must provide proof of identity
- If a governmental agency requests to view a transfer return, the agency must provide an agency authorization letter

In cases of a condemnation proceeding or an appeal of an assessment:

- If an agent, make a copy of the agreement appointing the agent
- If an assessment appeal, request a copy of the objection form. Contact the clerk of the taxing district where the objection form was filed.
- Record all forms that were photocopied on Form 709, "Request to Examine Real Estate Transfer Returns," listing county document numbers, volume and page
- Persons obtaining photocopies of transfers must write their name and date on the bottom of each copy
- A judge must authorize a subpoena to view or copy a transfer
- Persons requesting copies of their own returns through an agent must provide the agent with a limited power of attorney

Conversions (MC-500 Report Requirements)

1. **What are the filing requirements for mergers or conversions with an effective date of July 1, 2016 or after, under state law (sec. 73.14, Wis. Stats.)?**

There are no filing requirements. Under the 2015 Act 295, the requirement to file the MC-500 Merger Conversion Report required under state law (sec 73.14, Wis. Stats.) was repealed.

2. **What are the filing requirements for mergers or conversions with an effective date prior to July 1, 2016, under state law (sec. 73.14, Wis. Stats.)?**

If an acquired business entity in a merger, or the converted business entity in a conversion, had a fee simple ownership interest in any Wisconsin real estate immediately prior to the merger or conversion, the surviving business must submit an MC-500 Report to the Wisconsin Department of Revenue no later than 60 days after the effective date of the merger or conversion. If the surviving business does not submit the report within the timeframe or does not specify the municipalities affected, penalties are applied under state law (sec. 73.14(2), Wis. Stats.). It is optional to record deeds changing title to the property with the county Register of Deeds. The MC-500 Report is located on our website at:

<https://www.revenue.wi.gov/Pages/RETr/merger.aspx>.

MC-500 Report provides:

- o **Name/ownership change** - record title and the address for future tax bills can be updated for the property(s) listed
- o **New owner's name listed under the "Surviving Entity"** - the tax bill should be sent to the new owner at the address listed in the property description section
- o **Authorized person** - if a tax bill address is not specified in the property description section, the tax bill should be sent to the person authorized to submit the report (located at the bottom of the report)

Note: Under state law (sec. 73.14(2)(a), Wis. Stats.), you are charged a \$200 penalty for each day the report is late, not to exceed \$7,500.

Corporations

1. **What is the 3-year requirement for the exemption in state law (sec. 77.25(15), Wis. Stats.), for corporations?**

This requirement only applies to conveyances **from** the corporation. To qualify for the exemption in state law (sec. 77.25(15), Wis. Stats.), the corporation must have had title to the property for three or more years prior to the conveyance, in addition **to** the other stated requirements. The holding period requirement does not apply for conveyances to the corporation.

2. **If a corporation deeds its property to the corporation's president for no consideration, does a transfer fee apply?**

Yes. Unless one of the exceptions in state law (sec. 77.25, Wis. Stats.), can be applied. The only exemption that could be applied to a conveyance between a corporation and an individual is sec. 77.25(15), Wis. Stats. For sec. 77.25(15) to apply, **all three** of the following requirements must be met:

- President is a shareholder **and** all the shareholders are related as required by the exemption
- Conveyance is for no consideration other than surrender of stock and/or the assumption of debt
- Corporation has owned the property three or more years prior to the conveyance

Corrections (before Register of Deeds records the eRETR)

1. Can you describe the eRETR correction procedure?

The following describes the eRETR correction procedure - if an error is discovered on a real estate transfer return **before** the Register of Deeds records the transfer, the Register of Deeds will call the preparer at the number listed on the bottom of the receipt and notify him/her of the error(s). After being notified by the Register of Deeds, the preparer needs to:

- Return to the [eRETR web page](#). "Restore" the saved file and make the necessary corrections.
- Once you make all corrections, select "Submit" and print the new receipt (which will have a different receipt number)
Note: Each time you click the "Submit" button, it creates a new receipt number. Verify you made all necessary corrections before clicking "Submit." Make sure to save a copy of the corrected file.
- After the corrections are resubmitted, the preparer should send or deliver the new receipt to the Register of Deeds
- Register of Deeds will then enter the new receipt number. Once the Register of Deeds receives the receipt for the corrected return, you may discard the receipt for the original incorrect return.
- To view and print the "Register of Deeds Criteria for an Electronic Real Estate Transfer Return (eRETR)," visit: revenue.wi.gov/Pages/Publications/slf-pe100e.aspx

2. If I do not have a document number, how do I file an Amended Real Estate Transfer Return (PE-500x)?

- A document number is generated **after** a deed is recorded. An Amended Real Estate Transfer Return (PE-500x) is only used after a deed is recorded and an error is discovered.
- If you discover an error **before** you receive a document number, you can correct the error by doing one of the following:

- While electronically filing the eRETR, if you see an error noted on the Summary page, go back to the section with the error and make the correction before clicking "Submit"
- If you discover an error after you already submitted your return (clicked the green "Submit" button), return to the eRETR home page and restore the saved file
 - a. Select "Start" and then "Restore Saved Information" (located on the right side below the "Remaining time" counter)
 - b. Locate the file on your computer using the "Browse" function and then select "Upload File"
 - c. Make the correction, save and click "Submit." You will get a receipt with a new receipt number to send in with document. Discard the "old" receipt. (Note: If you did not save the return, you must complete a new eRETR.)
- If the deed is already recorded by the Register of Deeds, you may file an Amended Real Estate Transfer Return (Form PE-500x) to correct the error.

Note: If you need to re-record a deed or record an affidavit of correction, you must file another eRETR. You may not use an amended real estate transfer return (Form PE-500x) for this purpose. You can only file a Form PE-500x **after** a deed is recorded and if the error is only on the eRETR.

Corrections (after eRETR being recorded by Register of Deeds)

1. How should I complete a transfer return when a deed is recorded correcting or reforming a previously recorded deed?

Fill out the return the same as the original, except for the following:

- Correct the items that need changing (ex: name of grantor, grantee, legal description)
- Under "Type of Transfer," check "Other" and explain what you are correcting/reforming
- List the real estate value being transferred as zero (0)
- Select Exemption 3 (sec. 77.25(3), Wis. Stats.), which exempts the deed from the real estate transfer fee, and enter the document number of the document being corrected

2. How do I correct a transfer return after the Register of Deeds records it?

- If the deed (instrument of conveyance) is correct but you discover a mistake on the return **after** the Register of Deeds records it, you may file an amended Real Estate Transfer Return (Form PE-500x)
- **Note:** It is not necessary to file an amended Real Estate Transfer Return for minor errors (ex: missing middle initials or minor misspellings of names)
- If the original eRETR has a number of errors, you may want to consider re-recording your deed with a new eRETR (correcting all the mistakes). This re-recording with a new eRETR would be exempt from a transfer fee under state law (sec. 77.25(3), Wis. Stats.).

Correction Instrument/Affidavit of Correction

1. If I record a Correction Instrument/Affidavit of Correction instead of re-recording a previously recorded deed, do I need to file a transfer return?

- Yes. Any deed, Correction Instrument or Affidavit of Correction presented for recording, requires a transfer return (eRETR) under state law (sec. 77.22(1), Wis. Stats.). A corrective instrument is exempt from a transfer fee under state law (sec. 77.25(3), Wis. Stats.).
- **Note:** State law (sec. 77.25(3), Wis. Stats.), was created with the original enactment of Ch. 77, Sub-Chapter II for Real Estate Transfer Fee in 1968. The legislature created an exemption from transfer fee for correction instruments.

FOR MORE INFORMATION CONTACT:

MS 6-97

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - D

Date of Conveyance

1. What is the difference between "Date Recorded" and "Date of Conveyance"?
2. Do the "Date of Conveyance" on the eRETR and the date of the deed need to match?

Deed of Trust

1. Does a "Deed of Trust" need a transfer return when it is supposed to be similar to a real estate mortgage?

Deeds-Filing

1. How should a real estate transfer return be completed when the deed lists the person's (or entity's) current name and alternate name or names?
2. Can a paper PE-500 be used to record any deed?

Deeds-Multiple

1. Does the Wisconsin Department of Revenue accept "one transaction - one return" where the Register of Deeds receives multiple deeds conveying different interests in the same property to the same grantee and there is only one receipt filed?

Developers

1. Developer (landowner) and builder (improvement owner) are selling to the same party. How many deeds can be used for this conveyance?
2. What is the Wisconsin Department of Revenue's position on value subject to transfer fee on a conveyance of a vacant lot with a contract to construct a building?

Domestic Partners

1. What information is available for the Domestic Partner Fee Exemption - state law (sec. 77.25(8n), Wis. Stats.)?
2. Does an employer's extension of benefits to domestic partners qualify a conveyance between domestic partners for an exemption from transfer fee under state law (sec. 77.25(8n), Wis. Stats.)?
3. If a domestic partnership agreement is recorded in the county of primary residence, is a separate domestic partner recording required when placing the names of both domestic partners on the deed of a property located in a different county?

Domestication

1. Is a deed filed to give notice of a domestication under state law (sec. 178.1151, Wis. Stats.) exempt from transfer fee?
-

Date of Conveyance

1. What is the difference between "Date Recorded" and "Date of Conveyance"?

- o **Date recorded** - date the Register of Deeds records the instrument of conveyance
- o **Date of Conveyance** - date the instrument is signed and delivered per state law (sec. 706.02(1), Wis. Stats.)
- o **Note:** The date recorded and date of conveyance may be the same date if both actions occur on the same day

2. Do the "Date of Conveyance" on the eRETR and the date of the deed need to match?

No. The "Date of Conveyance" is the date the deed is "delivered to the buyer" which is interpreted as the "date of closing" even though the deed may have been signed on a different date. If the date of closing is changed to a different month or into the next year from what was originally entered, the eRETR "Date of Conveyance" must be changed.

Example 1: Tax exempt property is sold from a church to an individual. The deed is signed December 15, 2017, and closing is January 6, 2018. The date of conveyance was entered as December 15, 2017. The tax exempt property was put on tax roll for 2018. The new owner sued and won the case for another year of exemption as "date of closing" was after January 1.

Example 2: A claim for the Lottery and Gaming Credit for a primary residence is similar to Example 1. Since the deed is signed on December 15, 2017, and closing is scheduled for January 6, 2018, the property does not qualify as a Primary Residence as of January 1, 2018. Therefore, the Lottery and Gaming Credit would not apply until January 2019.

Deed of Trust

1. Does a "Deed of Trust" need a transfer return when it is supposed to be similar to a real estate mortgage?

Yes. Since a "Deed of Trust" replaces or serves as a mortgage where legal title to real property is placed with a Trustee (and is considered a conveyance), it needs a transfer return. If there is a default, the trustee would convey the property to the lender or successful bidder. This is different from a mortgage since a mortgage is not a conveyance of real property. For a default of a mortgage, a deed conveying the real property interest would have to be given by the borrower or sheriff to the lender or successful bidder. The exemption under state law (sec. 77.25(10), Wis. Stats.), applies to "Deeds of Trust" when used in place of a mortgage.

Deeds - Filing

1. How should a real estate transfer return be completed when the deed lists the person's (or entity's) current name and alternate name or names?

The eRETR asks for the grantor's or grantee's name. As with a Wisconsin income tax form, we ask for a "legal name." Anything after "a/k/a" or "f/k/a" is not the grantor's or grantee's legal name and is not required on the transfer return.

2. **Can a paper Form PE-500 be used to record any deed?**

No. State law (sec. 77.22(2), Wis. Stats.), requires that **all** real estate transfer returns are filed electronically.

Deeds - Multiple

1. **Does the Wisconsin Department of Revenue accept "one transaction - one return" where the Register of Deeds receives multiple deeds conveying different interests in the same property to the same grantee and there is only one receipt filed?**

No. Each instrument conveying an interest in real estate requires its own eRETR receipt. A portion of the total real estate value conveyed must be allocated to each return.

Example: Three siblings sell their individual interests in Parcel A to X. Each sibling files a separate deed. Each sibling must file a transfer return for his/her respective interest transferred to X showing one third of the real estate value and the fee calculated on that value.

The eRETR makes it easier to complete multiple returns with similar information by making a template.

- Complete an eRETR for the first deed. Before (or after clicking) the green "Submit" button, save the file on your computer under a name that identifies it with the deed. **Do not** change the ".dor" extension.
- Submit, print and attach the receipt to that deed
- Return to the Filer page and select "Restore Saved Information" to access the saved eRETR and make changes for the second deed
- Repeat these steps for the remaining returns

Developers

1. **Developer (landowner) and builder (improvement owner) are selling to the same party. How many deeds can be used for this conveyance?**

Either one or two deeds can be used. If only one deed is used, both the developer and the builder are listed as grantors on the deed and the Real Estate Transfer Return. If two deeds are used (one for the developer and one for the landowner), each has his/her own respective transfer return. The developer's return indicates the property type as "Land Only" on the "Physical description" page of the transfer return. The builder's return indicates the property type as "Other" and provides the explanation of "Improvements Only."

2. **What is the Wisconsin Department of Revenue's position on value subject to transfer fee on a conveyance of a vacant lot with a contract to construct a building?**

The value subject to transfer fee is only the value of the real property at the time of conveyance. The improvement value is included with the lot value only on that percentage of improvement completed at the time of conveyance.

Examples:

- If there is only a vacant lot with a construction contract - lot only
- Improvement is 50 percent completed - lot plus 50 percent of the value of the improvement
- Improvement is 100 percent completed - lot plus total value of the improvement

Note: This position is in accordance with R & R Development Group, LLC v. Wisconsin Department of Revenue, (CCH) ¶400-407 (WTAC Feb. 11, 1999).

Domestic Partners

1. **What information is available for the Domestic Partner Fee Exemption - state law (sec. 77.25(8n), Wis. Stats.)?**

The 2009 budget bill, 2009 Wisconsin Act 28, created an exemption from transfer fee for conveyances "between an individual and his or her domestic partner under chapter 770." The domestic partner exemption, under state law (sec. 77.25(8n), Wis. Stats.), was effective as of July 1, 2009. This exemption does not apply to a conveyance prior to that date. The eRETR's "Fee computation" page includes the domestic partner exemption under sec. 77.25(8n), Wis. Stats. To qualify for the domestic partner exemption, the grantor and grantee must get a declaration of domestic partnership as defined in Chapter 770 and record it with the Register of Deeds where they maintain their primary residence prior to the conveyance. Contact the Wisconsin Department of Health Services with questions on the domestic partner declaration: www.dhs.wisconsin.gov/vitalrecords/applications.htm.

Note: Under 2017 Wisconsin Act 59, enacted September 21, 2017), Ch. 770.07(1)(a), Wis. Stats. was amended to read: "To form a domestic partnership, individuals must apply on or after the 31st day beginning after July 1, 2009, but no later than April 1, 2018, for a declaration of domestic partnership to the county clerk of the county in which at least one of the individuals has resided for at least 30 days immediately before applying."

2. **Does an employer's extension of benefits to domestic partners qualify a conveyance between domestic partners for an exemption from transfer fee under sec. 77.25(8n), Wis. Stats.?**

No. For a conveyance to qualify for an exemption under state law (sec. 77.25(8n), Wis. Stats.), the individuals must comply with sec. 770.07, Wis. Stats. Specifically, a domestic partnership agreement must be recorded with the Register of Deeds in the county of primary residence **prior** to the date of conveyance.

3. **If a domestic partnership agreement is recorded in the county of primary residence, is a separate domestic partner recording required when placing the names of both domestic partners on the deed of a property located in a different county?**

No. State law (sec. 770.07, Wis. Stats.), requires that the declaration of domestic partnership is made to the clerk of the county where at least one of the individuals has resided for at least 30 days immediately before applying. Sec. 770.10, Wis. Stats., also requires recording the declaration with the Register of Deeds of the county where they maintain their primary residence. Once the declaration of domestic partnership is properly recorded, it can be applied in any county in the state.

Domestication

1. **Is a deed filed to give notice of a domestication under state law (sec. 178.1151, Wis. Stats.) exempt from transfer fee?**

Yes. A deed filed to give notice of a domestication under state law (sec. 178.1151, Wis. Stats.) is exempt from transfer fee per state law (sec. 77.25(6t), Wis. Stats.).

FOR MORE INFORMATION CONTACT:

MS 6-97

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - E

Exchange of Property

1. A buyer buys vacant Lot 1, but decides he wants Lot 2 instead. The buyer is now going to trade Lot 1 back to the seller in exchange for Lot 2. There is no adjustment to the original purchase price. Can both exchange deeds be exempt under state law (sec. 77.25(3), Wis. Stats.)?
2. Is a transfer fee due when trading vacant land for a four wheeler?
3. Explain the concept of property exchanges. What should be done if one exchanged property value is higher than the other?

Exempt from Filing Return

1. Under what circumstances may the Register of Deeds accept deeds (instruments of conveyance) without a transfer return?
2. Is a conveyance of a cemetery lot subject to a transfer return and fee?
3. If there is no statement on the document exempting the recording from a return, and the grantee's agent is insisting the document is exempt from the fee and return, can the Register of Deeds record the document?

Exchange of Property

1. **A buyer buys vacant Lot 1, but decides he wants Lot 2 instead. The buyer is now going to trade Lot 1 back to the seller in exchange for Lot 2. There is no adjustment to the original purchase price. Can both exchange deeds be exempt under state law (sec. 77.25(3), Wis. Stats.)?**

No. Transfer fees are due on both exchange deeds. State law (sec. 77.25(3), Wis. Stats.), does **not** apply to a conveyance where the buyer "changes his/her mind." An exchange of real property is subject to transfer fee under administrative rule (tax 15.02(2), Wis. Adm. Code). There are two separate and distinct conveyances involved and the value should be separately determined for each.

When the values are identical - there is a fee on the fair market value of each lot since the values do not "offset" each other.

When the values are different - if "A" conveys Parcel 1 to "B" worth \$50,000 and "B" conveys Parcel 2 to "A" worth \$45,000 plus \$5,000 cash, the fee for the "A" to "B" conveyance is on \$50,000 and the "B" to "A" conveyance is on \$45,000.

2. **Is a transfer fee due when trading vacant land for a four wheeler?**

Yes. A transfer fee is due. Giving something in exchange for real estate is a conveyance for consideration, regardless of the form of consideration. If the value of the four wheeler is less than the fair market value of the land, use the fair market value of the land as the amount subject to transfer fee.

3. **Explain the concept of property exchanges. What should be done if one exchanged property value is higher than the other?**

Two separate and distinct conveyances are involved and the value for each property is determined separately. (administrative rule (tax 15.02(2), Wis. Adm. Code))

Exempt from Filing Return

1. **Under what circumstances may the Register of Deeds accept deeds (instruments of conveyance) without a transfer return?**

When you present a deed or other instrument for recording without a transfer return, you must include some instruction on the document. This allows the Register to form a judgment for acceptance or rejection.

Examples:

- An option or right of first refusal to purchase - "This is an option (or right of refusal to purchase), not a conveyance as defined by state law (sec. 77.21(1), Wis. Stats); and is not subject to transfer return or fee imposed under sec. 77.22(1), Wis. Stats."
- Exemptions (1) and (10m) do not require the filing of a return

Note: It is the responsibility of the parties to exempt the transaction from a transfer return and fee, not the Registers of Deeds. The Register of Deeds should never accept a verbal claim of exemption.

2. **Is a conveyance of a cemetery lot subject to a transfer return and fee?**

No. A conveyance of a cemetery lot is exempt from the transfer return and fee under administrative rule (tax 15.05(6), Wis. Adm. Code). The document should include language to the effect of, "This is a cemetery lot and is exempt from transfer return and fee under administrative rule (tax 15.05(6), Wis. Adm. Code)" in keeping with the procedures of the Register of Deeds accepting documents without returns. **Note:** A conveyance of land for use as a cemetery is subject to a transfer return and fee per the same code.

3. **If there is no statement on the document exempting the recording from a return, and the grantee's agent is insisting the document is exempt from the fee and return, can the Register of Deeds record the document?**

- No. If the document is exempt from the return and fee requirement under state law there must be a statement on the front of the document exempting it.

Example statement - "This document is a lease of less than 99 years, not a conveyance as defined by state law (sec. 77.21(1), Wis. Stats.), and is exempt from a return and fee imposed (sec. 77.22(1), Wis. Stats.)"

- If the document is designating or removing a TOD beneficiary under state law (sec. 705.15, Wis. Stats.), it is exempt from transfer return and fee

Example statement - "This document is designating or removing a TOD beneficiary under state law (sec. 705.15, Wis. Stats.), and is exempt from return and fee per state law (sec. 77.25(10m), Wis. Stats.)"

FOR MORE INFORMATION CONTACT:

MS 6-97

WISCONSIN DEPARTMENT OF REVENUE

Local Government Services Bureau

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - F

Farmland

1. Can "Farmland Use Value" be used for Total Value of Real Estate when agricultural property is being conveyed?

Federal Revenue Stamp

1. If a deed has the Federal Revenue Stamps on it, how do you calculate the price paid for the property from these stamps?

Fees

1. Is the Wisconsin Department of Revenue (DOR) responsible for paying fees to the Register of Deeds when requesting copies of documents?

Financing

1. I am selling my house and am giving back a "second mortgage" which may or may not be forgiven. How do I fill out the transfer form for "Grantees Financing?"

Foreclosures

1. Is a deed from a vendee back to a vendor made under foreclosure or in lieu of foreclosure exempt under Exemption 14?
2. Four people (two couples) purchased real estate. All four were named grantees on the deed. Couple A provided the purchase price and made an agreement with Couple B to contribute. Couple B cannot pay and will quit claim to Couple A. Is this transaction exempt from fee as a deed in lieu of foreclosure?

Farmland

1. **Can "Farmland Use Value" be used for Total Value of Real Estate when agricultural property is being conveyed?**

No. Use value assessment is a method of assessing agricultural land for state law (ch. 70, Wis. Stats.), and is not used for value on the transfer return per definitions under sec. 77.21, Wis. Stats. Value for transfer fee purposes is defined in sec. 77.21(3)(a), Wis. Stats.:

"Value" means:

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

- b. In case of a gift, or any deed of nominal consideration or any exchange of properties, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and at prevailing general price levels.

Federal Revenue Stamp

1. **If a deed has the Federal Revenue Stamps on it, how do you calculate the price paid for the property from these stamps?**

Prior to 1969, the United States government had a revenue stamp with a rate of \$0.55 on each \$500.00 (or fractional part thereof), of the sale price or value of the property conveyed. Values of less than \$100.00 were exempt from the stamp.

Fees

1. **Is the Wisconsin Department of Revenue (DOR) responsible for paying fees to the Register of Deeds when requesting copies of documents?**

No. According to state law (sec. 59.43(2) (b), Wis. Stats.), DOR is exempt from the fee.

Financing

1. **I am selling my house and am giving back a "second mortgage" which may or may not be forgiven. How do I fill out the transfer form for "Grantees Financing?"**

- o You **must** check more than one box. Check "Obtained from seller" and any additional box showing where you obtained the primary financing.
- o In addition to a second mortgage, for any type of financial arrangement from the seller (ex: credit, gift, donation), you must check "Obtained from seller" and any other box showing where you obtained the balance of the financing.

Foreclosures

1. **Is a deed from a vendee back to a vendor made under foreclosure or in lieu of foreclosure exempt under Exemption 14?**

Yes.

2. **Four people (two couples) purchased real estate. All four were named grantees on the deed. Couple A provided the purchase price and made an agreement with Couple B to contribute. Couple B cannot pay and will quit claim to Couple A. Is this transaction exempt from fee as a deed in lieu of foreclosure?**

Yes. This transaction is exempt from fee. Under state law (sec. 706.05, Wis. Stats.), these type of documents (mortgage, agreement) can be recorded. In Wisconsin, a mortgage is considered valid whether it is recorded or not. However, it is in the best interest of the lender to record the mortgage or agreement to protect their lien interest in the real estate.

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Real Estate Transfer Fee Common Questions - G

Gifts

1. If I give a gift of real estate to a private university or college foundation that funds research and scholarships, is it exempt from transfer fee under state law (sec. 77.25(2g), Wis. Stats.)?
2. If I give my nephew a house, is a transfer return and fee due?

Government Agencies

1. Are all sales to a governmental agency exempt from fee under state law (sec. 77.25(12), Wis. Stats.), pursuant to or in lieu of condemnation?
2. Is the following satisfaction of a land contract exempt per state law (sec. 77.25(17), Wis. Stats.)? A city sells property to an individual on land contract and the transfer return is filed using Exemption 2. Later the city sells its vendor's interest in the land contract to another individual and records the assignment without a return, since the vendor's interest is a personal interest in a debt. Now the deed in satisfaction is being recorded. Does Exemption 17 apply since the land contract was exempt and the current vendor is not a governmental agency?
3. When gifting property to a public school district, is this conveyance exempt from fee?
4. My company just started handling the resale of properties foreclosed by Federal Home Loan Mortgage Corporation (Freddie Mac). Will a transfer fee be due when a property is sold to a new buyer, or does exemption sec. 77.25(2), Stats, apply to the sale?
5. Can you provide some examples of other governmental agencies that are exempt from transfer fee under Exemption 2?

Gifts

1. **If I give a gift of real estate to a private university or college foundation that funds research and scholarships, is it exempt from transfer fee under state law (sec. 77.25(2g), Wis. Stats.)?**
 No. Since a private university or a foundation is not an instrumentality, agency or subdivision of the United States or the state, your gift is not exempt.
2. **If I give my nephew a house, is a transfer return and fee due?**
 Yes. Even though the house was a gift, you must pay a fee on the full market value of the property per state law (sec. 77.21(3)(b), Wis. Stats.). Transactions between an uncle or aunt and niece or nephew are not exempt.

Government Agencies

1. **Are all sales to a governmental agency exempt from fee under state law (sec. 77.25(12), Wis. Stats.), pursuant to or in lieu of condemnation?**

No. Not all sales to a governmental agency are exempt from fee. The conveyance is exempt per Exemption 12 as "pursuant to or in lieu of condemnation" if the sale meets the criteria under state law (sec. 32.05, or sec. 32.06, Wis. Stats.). At a minimum the procedures under Chapter 32 for condemnation must be initiated.

Exemption does not apply when:

- o Property purchased has been on the open market for sale
- o Property was the final selection of many parcels for a project that could be placed anywhere. **Example:** A maintenance garage is not exempt because it could be placed anywhere, as opposed to an extension of an airport runway which must be placed at the end of a runway.

2. **Is the following satisfaction of a land contract exempt per state law (sec. 77.25(17), Wis. Stats.)? A city sells property to an individual on land contract and the transfer return is filed using Exemption 2. Later the city sells its vendor's interest in the land contract to another individual and records the assignment without a return, since the vendor's interest is a personal interest in a debt. Now the deed in satisfaction is being recorded. Does Exemption 17 apply since the land contract was exempt and the current vendor is not a governmental agency?**

Yes. Since the original vendor was a governmental agency and exemption sec. 77.25(2), Wis. Stats., was properly used, the satisfaction is exempt per sec. 77.25(17), Wis. Stats., regardless of the current vendor.

3. **When gifting property to a public school district, is this conveyance exempt from fee?**

Yes. A gift to a public school district is exempt from fee per state law (sec. 77.25(2g), Wis. Stats.). **Note:** A gift to a private school is subject to fee per administrative rule (Tax 15.03(5), Wis. Adm. Code), which relates to: "conveyances between an individual and a tax exempt organization."

4. **My company just started handling the resale of properties foreclosed by Federal Home Loan Mortgage Corporation (Freddie Mac). Will a transfer fee be due when a property is sold to a new buyer, or does exemption sec. 77.25(2), Stats, apply to the sale?**

Federal Home Loan Mortgage Corporation (Freddie Mac) is exempt from transfer fee per state law (sec. 77.25(2), Wis. Stats.), as an instrumentality of the United States based on *Rust v. Johnson*, 597 F.2d 174 (9th Cir. 1979). Freddie Mac and Federal National Mortgage Association (Fannie Mae) are exempt from transfer fee. See sec. 77.25(2), Wis. Stats. ("From the United States or from this state or from any instrumentality, agency or subdivision of either"). The exemption from real estate transfer fee is not by Freddie Mac's or Fannie Mae's charter under 12 USCS § 1732a(c), since they are subject to state and local real estate taxes.

5. **Can you provide some examples of other governmental agencies that are exempt from transfer fee under Exemption 2?**

- o Department of Housing and Urban Development, 42 USCS § 3532
- o Farm Credit Banks, 12 USCS § 2011 (only four exist):
 - AgFirst
 - AgriBank
 - Farm Credit Bank of Texas
 - CoBank
- o Federal Land Bank Association, 12 USCS § 2031

- Production Credit Association, 12 USCS § 2091
- Veterans Administration, 38 USCS § 201
- Federal Home Loan Mortgage Corporation (Freddie Mac)
- Federal National Mortgage Association (Fannie Mae)
- Government National Mortgage Association (Ginny Mae)
- Federal Deposit Insurance Corporation
- Federal Agriculture Mortgage Corporation (Farmer Mac)

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Real Estate Transfer Fee Common Questions I-J

Interest Exchange

1. Is a deed filed to give notice of an interest exchange under state law (sec. 178.1131, Wis. Stats.), exempt from transfer fee?
2. Is a conveyance of real estate to a partnership in exchange for a partnership interest exempt from transfer fee under Exemption 6q?

Joint Tenancy

1. I'm preparing a transfer tax return to accompany a deed where the owner of a single-family residence is a single male. He requested that I prepare a deed from him (as sole owner) to himself and his cohabitant (as joint tenants). The couple does not plan to marry. I have the following questions:
 - a. When figuring the transfer fee, should I figure it on half the value of the real estate or should I figure it on the entire value?
 - b. Grantor/Grantee relationship: Is it none? Or is it "Other" with the explanation of "cohabitants"?
 - c. Type of Transfer: Should I select "Other" and explain it as a "Conveyance" with no explanation?
 - d. Ownership interest transferred: Should I select "Full" or "Other"? Should I explain it as "Grantor is conveying a half interest to Grantee?"
 - e. Does Grantor retain any of the following rights: Should I select "None" (since he is giving up his rights as an individual owner and conveying them to himself and his cohabitant as joint tenants)? Or should it be "Other" and explained with "Grantor retains a half interest"?
2. In filing a quit claim deed from a surviving spouse disclaiming joint tenancy in the real estate of the decedent under state law (sec. 854.13(2)(b), Wis. Stats.), the effect is as though the surviving joint tenant predeceased the decedent. (a) Is a transfer return required? (b) Is a return required when the decedent's children disclaim any interest in the estate and have no prior interest or title in the real estate?

Interest Exchange

1. **Is a deed filed to give notice of an interest exchange under state law (sec. 178.1131, Wis. Stats.), exempt from transfer fee?**

Yes. A deed filed to give notice of an interest exchange under state law (sec. 178.1131, Wis. Stats.) is exempt from transfer fee per state law (sec. 77.25(6q), Wis. Stats.).

2. Is a conveyance of real estate to a partnership in exchange for a partnership interest exempt from transfer fee under Exemption 6q?

No. A conveyance of real estate to a partnership in exchange for partnership interest does not meet any of the statutory requirements of an interest exchange under state law (sec. 178.1131, Wis. Stats.), and is not exempt from transfer fee under sec. 77.25(6q), Wis. Stats.

Wisconsin Statute References

Sec. 77.25(6q) – is "Pursuant to an interest exchange under s. 178.1131."

Sec. 178.1131 – Interest exchange authorized

(1) A domestic partnership may acquire all of one or more classes or series of interests of another domestic or foreign entity pursuant to ss. 178.1131 to 178.1135 and a plan of interest exchange if the interest exchange is permitted under the governing law applicable to the partnership and the acquired entity.

(2) All of one or more classes or series of interests of a domestic partnership may be acquired by another domestic or foreign entity pursuant to ss. 178.1131 to 178.1135 and a plan of interest exchange if the interest exchange is permitted under the governing law applicable to the acquiring entity and the partnership.

An interest exchange under Sub (1) is where a partnership acquires all of one or more classes or series of interests of another domestic or foreign entity and under sub (2) is where all of one or more classes or series of interests of a domestic partnership may be acquired by another domestic or foreign entity.

Sec. 178.1101(16) – defines "interest" as:

- (a) A share in a business corporation
- (b) A membership in a nonprofit corporation
- (c) A partnership interest in a general partnership
- (d) A partnership interest in a limited partnership
- (e) A membership interest in a limited liability company
- (f) A membership interest or stock in a general cooperative association
- (g) A membership interest in a limited cooperative association
- (h) A membership in an unincorporated nonprofit association
- (i) A beneficial interest in a statutory trust, business trust, or common-law business trust.
- (j) A comparable interest in any other type of unincorporated entity.

Note: "Classes or series of interest" does not include real estate.

In addition, an interest exchange must meet the following statutory requirements:

- Sec. 178.1132(1), Wis. Stats. – defines what information the plan of interest exchange must contain
- Sec. 178.1133(1), Wis. Stats. – requires the plan of interest exchange must be approved by the partners of the acquiring entity

- o Sec. 178.1134, Wis. Stats. – requires the plan of interest exchange must be delivered to the Wisconsin Department of Financial Institutions (WDFI) for approval
- o A plan of interest exchange is submitted to WDFI on [Form 52 Articles of Share or Interest Exchange](#)

Note: The only possible exemption for a conveyance of real estate to or from a partnership is sec. [77.25\(15m\)](#), Wis. Stats.:

Between a partnership and one or more of its partners if all of the partners are related to each other as spouses, as lineal ascendants, lineal descendants or siblings, whether by blood or by adoption, or as spouses of siblings and if the transfer is for no consideration other than the assumption of debt or an interest in the partnership.

Joint Tenancy

1. **I'm preparing a transfer tax return to accompany a deed where the owner of a single-family residence is a single male. He requested that I prepare a deed from him (as sole owner) to himself and his cohabitant (as joint tenants). The couple does not plan to marry. I have the following questions:**
 - a. **When figuring the transfer fee, should I figure it on half the value of the real estate or should I figure it on the entire value?**

Transfer fee is due on one-half of the fair market value since one-half of the value is being conveyed.
 - b. **Grantor/Grantee relationship: Is it none? Or is it "Other" with the explanation of "cohabitants"?**

Since either one applies, you may check either one or both. If you select "Other," you must provide an explanation.
 - c. **Type of Transfer: Should I select "Other" and explain it as a "Conveyance" with no explanation?**

You can check "Other" and explain it as "cohabitants."
 - d. **Ownership interest transferred: Should I select "Full" or "Other"? Should I explain it as "Grantor is conveying a half interest to Grantee?"**

Select "Other" and explain it as "Grantor is conveying a half interest to Grantee."
 - e. **Does Grantor retain any of the following rights: Should I select "None" (since he is giving up his rights as an individual owner and conveying them to himself and his cohabitant as joint tenants)? Or should it be "Other" and explained with "Grantor retains a half interest"?**

Select "Other" and explain it as "Grantor retains a half interest."
2. **In filing a quit claim deed from a surviving spouse disclaiming joint tenancy in the real estate of the decedent under state law (sec. 854.13(2) (b), Wis. Stats.), the effect is as though the surviving joint tenant predeceased the decedent. (a) Is a**

transfer return required? (b) Is a return required when the decedent's children disclaim any interest in the estate and have no prior interest or title in the real estate?

(a) Yes. A transfer return is required; however, the spousal deed is exempt from fee per state law (sec. 77.25(11), Wis. Stats.), as being "By will, descent or survivorship." It is assumed that spouses may also have an interest in the property under marital property law.

(b) No. For the children, since they had no prior interest or title in the property, this is exempt from return and fee, according to sec. 77.21 (1), Wis. Stats.

Note: You should make a statement on the document similar to, "This is a disclaimer only and not a conveyance as defined by sec. 77.21(1), Wis. Stats, and therefore is exempt from fee imposed under sec. 77.22(1), Wis. Stats." If they had an interest in the property, then the use of the exemption per sec. 77.25(11), Wis. Stats., would apply. We instructed the Register of Deeds that they should not accept exempt recordings verbally and the person recording the document should place the exemption on the document when no return is furnished.

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - L

Land Contracts

1. When a land contract was taken out, the property was all vacant land. Now the property has improvements. What value goes on the transfer return, the original land contract value or the current property value with the improvements?
2. How are the satisfaction of land contracts, dated prior to September 1, 1981 (\$1/thousand, 1 mill), reported on the electronic Real Estate Transfer Return (eRETR)? The eRETR automatically calculates at \$3/thousand, 3 mills. Is a waiver (PE-500w) required?
3. Does a vendee's assignment of land contract for collateral only require a transfer return?
4. Why is another transfer fee due on an assignment of a vendee's interest in a land contract when the fee was paid on the original land contract?
5. What is the measure of the fee when a vendee sells his/her interest in an original land contract for \$100,000 and there is a \$100,000 balance owed on the land contract assumed by the buyer?
6. A city sells property to an individual on a land contract and the transfer return is filed using Exemption 2. Later the city sells its vendor's interest in the land contract to another individual and records the assignment without a return since the vendor's interest is a personal interest in a debt. Now the deed in satisfaction is being recorded. Does Exemption 17 apply since the land contract was exempt and the current vendor is not a governmental agency?
7. Is there a transfer fee due on a deferred land contract when there is an assignment of a vendor's interest in a land contract?
8. Is the recording of a deed in partial satisfaction of a land contract that releases one parcel of the two parcels conveyed on the land contract, exempt from return and fee?
9. When was the deferral of transfer fees changed on land contracts?
10. When is a land contract exempt from fee?
11. Can Exemption 8 be used on a land contract between parent and child?
12. Is a deed in satisfaction of a land contract caused by will, descent or survivorship exempt from fee?
13. Is a transfer return needed when there is an amendment of a land contract reflecting an increased interest rate or longer term?

14. According to a divorce decree, the husband must give his vendee's interest in the land contract to his wife. Is a transfer fee due on an originally fee-deferred land contract even if the divorce conveyance is exempt?
15. If a vendor and vendee of an original land contract sign their respective interest over to a third party, is there a fee due?
16. There are two vendees in a land contract and one vendee is assigning his interest in the property to the other vendee. Does the vendor's name go on the transfer return as grantor and is there a fee due?

Lease

1. Can a Register of Deeds accept a lease (or an assignment of lease) regarding a telephone cell tower with no explanation as to the length of the lease being recorded or assigned without a transfer return?
2. A hospital built a day care center on property it owns. Now, it is selling just the building, and the new owners are going to lease the land. Is the sale of the building subject to transfer return and fee?
3. For transfer fee purposes, a fee is due for a lease of 99 years or more per state law (sec. 77.21(1), Wis. Stats.). How would you measure the number of years for a lease with an initial term of less than 99 years but renewable so it becomes 99 years or more?
4. When recording a deed that conveys a lease of 30 years remaining on an original 99-year lease, is this conveyance subject to transfer return and fee?
5. If you file a "Termination of Lease" for a lease that is less than 99 years, do you need a transfer return?
6. If a condominium is selling its units as a 75-year lease for \$100,000, is a transfer return and fee due?
7. Renter A entered into a ground lease with Owner B for 50 years. Owner B constructed a building on this land. Owner B then assigned this lease and sold the building to Buyer C. Would the sale of the building on leased land be subject to the fee and return?

Legal Description

1. Is there any way to get the symbols to appear correctly into the eRETR Legal description box?

Life Estates

1. When gifting property to your children and grandchildren while keeping a life estate, is there a formula to calculate the value of the property being conveyed?
2. If a grandmother is gifting her home to her granddaughter and reserving a life estate, is this exempt from fee per sec. 77.25(8) or (13), Wis. Stats.?
3. Is a fee due on the purchase of a life estate?
4. Is a fee due on the repurchase of a life estate by a condominium association?

Limited Liability Company (LLC)

1. Can a partnership convert to a limited liability company with an effective date of July 1, 2016 or after and be exempt per state law (sec. 77.25(6m), Wis. Stats.)?
2. Can a general partnership convert to a limited liability company with an effective date prior to July 1, 2016 and be exempt per state law (sec. 77.25(6m), Wis. Stats.)?
3. What are some examples of required relationships for Exemption 15 corporations, Exemption 15m partnerships and Exemption 15s limited liability companies?
4. Can another entity be a member of an LLC and be exempt from transfer fee per state law (sec. 77.25(15s), Wis. Stats.)?
5. Is a quit claim deed from a general partnership to a limited liability company subject to a transfer fee?
6. If a corporation (or partnership) transfers its real estate to its LLC and the ownership in the corporation (or partnership) and LLC are identical, is this exempt from fee under state law (sec. 77.25(6m), Wis. Stats.)?
7. I am conveying property from my revocable trust (which I am the trustee) to my limited liability company (LLC), is this exempt from transfer fee?
8. The successful bidder at the sheriff's sale was an LLC. The only members of the LLC are the defendants related as husband and wife. In essence, they purchased their own house, but in the name of the LLC. The LLC was in existence prior to the commencement of the foreclosure and the sheriff's sale. Is this transfer exempt under state law (sec. 77.25(15s), Wis. Stats.), since the husband and wife are the only members of the Grantee (LLC)?
9. An LLC will be dissolved. The LLC owns some condo units and plans to deed a unit to each member of the LLC. The members are unrelated to each other, so they cannot use Exemption 15s. There is a mortgage on all the units held by the LLC and the individual members will take a loan out on their individual units to have the LLC's outstanding mortgage released. Is there a transfer fee due for each unit or can they use either Exemption 5 for partition or Exemption 10 to release a security or debt?
10. Property is in a revocable living trust. The trust uses the same Social Security Number as the settlor/trustee (father). The trustee's children are the beneficiaries. The trustee now wants to convey the real estate to a limited liability company (LLC) whose only members are his children. Is there a fee due if we deed the real estate directly to the LLC?
11. I am selling a membership interest in my LLC where the LLC name will remain the same. The only change will be the members who own the LLC. Do I need to file a deed and pay a transfer fee since the members are not related?
12. AB, LLC holds title to real estate and consists of two unrelated individuals, X and Y. Y sells his membership to X. AB, LLC continues as always, but X wants to record a deed indicating AB, LLC is now a solely owned LLC. Is this transaction exempt from transfer return and fee?
13. A married couple own real property together. They want to convey it directly into an LLC where only one of the spouses is a member. Would this be exempt from transfer fee?
14. If the sole members of an LLC are "A" and "B," and are also sole partners in a partnership, would the following relationship between "A" and "B" qualify for the Exemptions 15m and 15s? The partnership wants to convey real property to the LLC. "A" has a sister "C" who is married to "D" who is the brother of "B." Since a direct conveyance from the partnership to the LLC

would result in a transfer fee being imposed, regardless of the relationship of the partners and members, we are proposing a conveyance from the partnership to the individuals using Exemption 15m and then from the individuals to the LLC using Exemption 15s. Are "A" and "B" related as required for the exemptions?

15. "A" was the brother-in-law of "B" and both are the sole members of A B, LLC that owns real estate. "A" is now divorced from "B's" sister. Can they liquidate the LLC and exempt the conveyance from fee per state law (sec. 77.25(15s), Wis. Stats.)?
16. Would a conveyance of real estate from an LLC with multiple members to just one member in the LLC upon liquidation, be subject to transfer fee?

Land Contracts

1. **When a land contract was taken out, the property was all vacant land. Now the property has improvements. What value goes on the transfer return, the original land contract value or the current property value with the improvements?**

Use the original land contract value. The real estate was conveyed on the land contract, not the satisfaction.

2. **How are the satisfaction of land contracts, dated prior to September 1, 1981 (\$1/thousand, 1 mill), reported on the electronic Real Estate Transfer Return (eRETR)? The eRETR automatically calculates at \$3/thousand, 3 mills. Is a waiver (PE-500w) required?**

No waiver is required since the eRETR allows for the .001 mil rate land contract. The following describes how to complete the eRETR.

On the "Transfer" page of the eRETR:

- Check "Deed in satisfaction of land contract" and also "Other." In the "Other" field, explain that the land contract is dated mm/dd/yyyy and requires a one mill payment.

On the "Fee Computation" page of the eRETR:

- Total value of real estate transferred = value of original land contract
- Value subject to fee = 1/3 the value of the original land contract. The fee calculates to the amount based on the rate of .001
- Since the "Value subject to fee" is less than the "Total value of real estate transferred," select transfer fee Exemption 17 - Sat. Land Contract"
- Provide the document number and date of the original land contact in the appropriate boxes for claiming Exemption 17

3. **Does a vendee's assignment of land contract for collateral only require a transfer return?**

Yes. Exemption 10 applies.

4. **Why is another transfer fee due on an assignment of a vendee's interest in a land contract when the fee was paid on the original land contract?**

These transactions are two separate and distinct conveyances:

- There is a fee on the original land contract (or any instrument evidencing the existence of a land contract)
- Sale and obligation of payment on the assignment of a vendee's interest in a land contract is subject to transfer fee per state law (sec. 77.21(1), Wis. Stats.), and administrative rule (Tax 15.04, Wis. Adm. Code)

5. What is the measure of the fee when a vendee sells his/her interest in an original land contract for \$100,000 and there is a \$100,000 balance owed on the land contract assumed by the buyer?

The fee is based on the total consideration of \$200,000 (sum of the cash paid of \$100,000 and the balance of \$100,000 owed) on the land contract that is assumed by the buyer.

6. A city sells property to an individual on a land contract and the transfer return is filed using Exemption 2. Later the city sells its vendor's interest in the land contract to another individual and records the assignment without a return since the vendor's interest is a personal interest in a debt. Now the deed in satisfaction is being recorded. Does Exemption 17 apply since the land contract was exempt and the current vendor is not a governmental agency?

Yes. Exemption 17 does apply. Since the original vendor was a governmental agency and exemption sec. 77.25(2), Wis. Stats., was properly used, the satisfaction is exempt per state law (sec. 77.25(17), Wis. Stats.), regardless of the current vendor.

7. Is there a transfer fee due on a deferred land contract when there is an assignment of a vendor's interest in a land contract?

No. An assignment of a vendor's interest does not provide for the passage of ownership interest in real property and does not require a transfer return under state law (sec. 77.21(1), Wis. Stats.). Since a return is not required for a conveyance of a vendor's interest and typically does not involve the vendee, the deferred original land contract can remain deferred until satisfied or upon an assignment of the vendee's interest in the land contract. **Note:** An assignment of a vendee's interest is not only subject to fee but also requires a transfer fee on the original deferred land contract; this is because equitable conversion gives the vendee an ownership interest in the real estate.

8. Is the recording of a deed in partial satisfaction of a land contract that releases one parcel of the two parcels conveyed on the land contract, exempt from return and fee?

A transfer return is required, but the exemption under state law (sec. 77.25(17), Wis. Stats.), applies to a deed executed in fulfillment of a land contract if the proper fee was paid when the land contract or instrument evidencing the land contract was recorded. On the "Fee Computation" page:

- Enter the value of the portion satisfied in the box "Total value of real estate transferred"

- Do not enter the total of the original land contract. See administrative rule (Tax 15.04(5), Wis. Adm. Code).
- **Example:**
 - A 40-acre parcel is sold under an original land contract for \$80,000; deed is issued in partial satisfaction of this land contract covering five acres; fee is based on 5/40 of \$80,000 or \$10,000
 - Enter zero (0) in the "Value subject to fee" box
 - You may then select Exemption 17 and enter the document number of the recorded land contract
 - **Note:** If the land contract was recorded before August 1, 1992 and the fee was deferred, then a transfer fee is due and you should enter the same value as shown in the "Total value subject to fee" box

9. **When was the deferral of transfer fees changed on land contracts?**

The 1991 Wisconsin Act 269, repealed the deferral of transfer fees on land contracts per state law (sec. 77.22(2), Wis. Stats.). Effective August 1, 1992, for ALL original land contracts submitted, a transfer fee is imposed at the time the land contract is submitted for recording.

10. **When is a land contract exempt from fee?**

- Exemption 17 – applies when recording a deed in satisfaction and the fee was previously paid either on an amendment or on the original land contract
- Exemption 14 – applies when recording a deed from the vendee back to the vendor under foreclosure or in lieu of foreclosure
- Exemption 1 applies – when recording a deed in satisfaction of a land contract dated before December 17, 1971

11. **Can Exemption 8 be used on a land contract between parent and child?**

No. Exemption 8 requires the conveyance to be for no or nominal consideration. A transfer fee would be due on the full sale price of a land contract.

12. **Is a deed in satisfaction of a land contract caused by will, descent or survivorship, exempt from fee?**

No. Exemption 11 may not be used since the original land contract conveyed the real property and the deed in satisfaction is only conveying a personal interest in the debt or obligation per the Doctrine of Equitable Conversion. A deed in satisfaction of a land contract must meet the requirements of Exemption 17 or a transfer fee is due if the original land contract was fee deferred.

13. **Is a transfer return needed when there is an amendment of a land contract reflecting an increased interest rate or longer term?**

Yes. Any amendment to a land contract requires the submission of a transfer return. The amendment is exempt from transfer fee under state law (sec. 77.25(3), Wis. Stats.).

Note: An increase in value requires the submission of an additional transfer fee.

14. **According to a divorce decree, the husband must give his vendee's interest in the land contract to his wife. Is a transfer fee due on an originally fee-deferred land contract even if the divorce conveyance is exempt?**

Yes. The conveyance of the vendee's interest between husband and wife who are getting divorced is exempt under state law (sec. 77.25 (8m) Wis. Stats.). However, the originally deferred fee is now payable with this assignment of the vendee's interest.

15. **If a vendor and vendee of an original land contract sign their respective interest over to a third party, is there a fee due?**

Yes. The effect of this conveyance merges all interests of the land contract with the third party. A fee is due on this sale. Also, if a transfer fee was deferred on the original land contract (contract consummated prior to August 1, 1992), that fee is also due.

16. **There are two vendees in a land contract and one vendee is assigning his interest in the property to the other vendee. Does the vendor's name go on the transfer return as grantor and is there a fee due?**

An assignment of a vendee's interest in a land contract is subject to both transfer fee and transfer return because it is a conveyance of an interest in real property per state law (sec. 77.21(1), Wis. Stats.). The transfer fee is due on the value of the original purchase price of the land contract if it was a recent purchase; otherwise, a fee is due on the fair market value of the real estate.

Vendors are not listed on the transfer return when doing an assignment of the vendee's interest. The grantor is the vendee conveying his/her interest. The grantee is the new vendee.

Lease

1. **Can a Register of Deeds accept a lease (or an assignment of lease) regarding a telephone cell tower with no explanation as to the length of the lease being recorded or assigned without a transfer return?**

It depends on the type of lease, whether a return is needed.

Examples:

- **Farmer Brown gives a 50-year lease to Big Phone Co.** - no return is needed if the wording on the recorded lease states, "This is a lease less than 99 years and not a conveyance per state law (sec. 77.21(1), Wis. Stats.) **Note:** If the lease is for 99 years or more, then a return and fee are due.) After the lease is recorded Big Phone Co. builds a tower on leased land.
- **Big Phone Co. assigns ground lease to Little Phone Co.** - transfer return and transfer fee are required since the assignment conveys "improvements" on leased land as defined under state law (sec. 77.21(1m), Wis. Stats.). The remaining length of the ground lease term does not matter. If the original lease was for less than 99 years then a transfer fee is due only on the tower; and if the original lease is greater than or equal to 99 years, then the fee is due on the ground lease and tower.

- o **Little Phone Co. now leases tower space to Tell All Phone Co. for an antenna** - this is not a conveyance of real property. No return is needed. Provided, however, that wording is included on the document submitted for recording to clarify that this is a "lease of tower space only, not a conveyance per state law (sec. 77.21(1), Wis. Stats.)."

2. A hospital built a daycare center on property it owns. Now, it is selling just the building, and the new owners are going to lease the land. Is the sale of the building subject to transfer return and fee?

Yes. The sale of the building requires a transfer return and fee. The building on leased land is defined as real estate under state law (sec. 77.21(1m), Wis. Stats.). "Real estate includes, but is not limited to, fixtures; roots, vines and trees of perennial crops; stock in a cooperative building; improvements on leased land; timber; and minerals."

Note: If the lease is for 99 years or more, the lease is also subject to a transfer return and fee. "Leases for at least 99 years but excluding leases for less than 99 years" are defined as a conveyance of real estate per sec. 77.21(1), Wis. Stats.

3. For transfer fee purposes, a fee is due for a lease of 99 years or more per state law (sec. 77.21(1), Wis. Stats.). How would you measure the number of years for a lease with an initial term of less than 99 years but renewable so it becomes 99 years or more?

Leases less than 99 years are not conveyances of real property per state law (sec. 77.21(1), Wis. Stats.). If an original lease of 50 years expires and is then renewed for another 50 years, it is considered to be less than 99 years and is exempt from transfer return and the transfer fee. You must include a statement on the recorded document such as, "This is a lease less than 99 years and not a conveyance per sec. 77.21(1), Wis. Stats."

However, if the original lease is for 50 years with an option to renew for years totaling 99 years or more, it would be a lease for 99 years and subject to return and transfer fee. This situation is similar to a land contract, which is subject to fee.

4. When recording a deed that conveys a lease of 30 years remaining on an original 99-year lease, is this conveyance subject to transfer return and fee?

Yes. A lease for at least 99 years and a conveyance of any remaining portion is defined as a passage of ownership interest in real property per state law (sec. 77.21(1), Wis. Stats.), and requires a transfer return and fee. A transfer fee is due per sec. 77.22(1), Wis. Stats., unless expressly exempted under sec. 77.25, Wis. Stats.

5. If you file a "Termination of Lease" for a lease that is less than 99 years, do you need a transfer return?

No. The termination of a lease does not convey an interest in real estate. If the document does not clearly state that this is a termination of a lease, you must include a statement, such as, "This is a termination of a lease less than 99 years and not a conveyance per sec. 77.21(1), Wis. Stats."

6. If a condominium is selling its units as a 75-year lease for \$100,000, is a transfer return and fee due?

No. A lease less than 99 years is not a conveyance of real property per state law (sec. 77.21(1), Wis. Stats.). The document recorded should have a statement included, such as, "This is a lease less than 99 years and is not a conveyance per sec. 77.21(1), Wis. Stats." The filer, not the Register of Deeds must exempt the document.

7. Renter A entered into a ground lease with Owner B for 50 years. Owner B constructed a building on this land. Owner B then assigned this lease and sold the building to Buyer C. Would the sale of the building on leased land be subject to the fee and return?

Yes. The definition of real estate specifically includes improvements on leased lands.

Legal Descriptions

1. Is there any way to get the symbols to appear correctly into the eRETR Legal description box?

The Microsoft symbols (from Microsoft Word) that you can insert into a document will not properly appear the eRETR legal description. Instead, create the symbols using "Alt-Key Codes:"

- Double or single quotation marks - hold the "Alt key" while typing "34" or "39" on the number key pad - a " or a ' will appear
- Degree symbol - to type the 'degree' symbol for legal descriptions - hold the Alt key while typing "0176" on the number keypad and a ° will appear
- **Note:** "Alt-Key Codes" should work with any software application

Life Estates

1. When gifting property to your children and grandchildren while keeping a life estate, is there a formula to calculate the value of the property being conveyed?

For the return, use the fair market value of the property actually being transferred. To calculate, take the property's fair market value and multiply it by a factor from the table in the Wisconsin Department of Health and Family Services [Medicaid Eligibility Handbook](#).

The value gifted to the children is exempt from the transfer fee per state law (sec. 77.25(8), Wis. Stats.), while the value gifted to the grandchildren is subject to the transfer fee. On the eRETR "Fee computation" page, enter the total value in "Total value of real estate transferred" as calculated using the tables referred to above, and in the "Value subject to fee," enter the calculated value to the grandchildren. Select "(8)" in the exemption selection box.

2. If a grandmother is gifting her home to her granddaughter and reserving a life estate, is this exempt from fee per state law (sec. 77.25(8) or (13), Wis. Stats.)?

No. Exemption 8 is between parent and child, not grandparent and grandchild. A transfer fee is due on the fair market value of the property minus the life estate value. Unless the actual real estate value conveyed is less than \$1,000.00, Exemption 13 does not apply.

3. Is a fee due on the purchase of a life estate?

Yes. The initial life estate sale is subject to a transfer fee based on the sales price.

4. Is a fee due on the repurchase of a life estate by a condominium association?

Yes. The fee is based on the consideration paid or to be paid on the repurchase date. The fee is paid at the time the instrument is recorded, terminating the life estate.

Limited Liability Company (LLC)

1. Can a partnership convert to a limited liability company with an effective date of July 1, 2016 or after and be exempt per state law (sec. 77.25(6m), Wis. Stats.)?

Yes. Effective July 1, 2016 or after, the exemption applies when converting a business entity to another form of business entity under state law (sec. 178.1141, 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats).

- Sec. 178.1141(1) - a domestic partnership may convert to another type of domestic entity, other than a domestic partnership, or to any type of foreign entity (under secs. 178.1141 to 178.1145, Wis. Stats.) and a plan of conversion if the conversion is permitted under the governing law of the converting entity and the governing law to be applied to the converted entity
- Sec. 178.1141(2) - a foreign or domestic entity, other than a domestic partnership, may convert to a domestic partnership under secs. 178.1141 to 178.1145, Wis. Stats. and a plan of conversion if the conversion is permitted under the governing law of the converting entity and the converted entity satisfies the definition of a partnership under this chapter immediately after the conversion
- Sec. 179.76(1) - a domestic limited partnership may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic limited partnership is converting
- Sec. 179.76(2) - a business entity, other than a domestic limited partnership, may convert to a domestic limited partnership if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity
- Sec. 180.1161(1)(a) - a domestic (business) corporation may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic corporation is converting

- Sec. 180.1161(2)(a) - a business entity, other than a domestic corporation, may convert to a domestic corporation if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity
- Sec. 181.1161(1)(a) - a domestic (non-stock) corporation may register to be another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic corporation is converting
- Sec. 181.1161(2)(a) - a business entity, other than a domestic (non-stock) corporation, may convert to a domestic corporation if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity
- Sec. 183.1207(1)(a) - a domestic limited liability company may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic limited liability company is converting
- Sec. 183.1207(2)(a) - a business entity, other than a domestic limited liability company, may convert to a domestic limited liability company if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity

2. Can a general partnership convert to a limited liability company with an effective date prior to July 1, 2016 and be exempt per state law (sec. 77.25(6m), Wis. Stats.)?

No. Prior to July 1, 2016 the exemption only applies when converting a business entity to another form of business entity under state law (sec. 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats).

Note: Prior to July 1, 2016 a general partnership can only register to be a limited liability partnership under state law (sec. 77.25(6d), Wis. Stats.), which provides, "Pursuant to partnerships registering as limited liability partnerships under sec. 178.40, Wis. Stats." and cannot be combined with sec. 77.25(6m), Wis. Stats.

3. What are some examples of required relationships for Exemption 15 corporations, Exemption 15m partnerships and Exemption 15s limited liability companies?

All Exemption 15 series require relationships to each other as spouses, lineal ascendants, lineal descendants, siblings or spouses of siblings.

Examples that meet the relationship requirements:

Sole: Sole individual (Corporation or LLC only)

Spouses: Spouse and spouse

Lineal: Parent(s) and child(ren); parent(s) and son-in-law/daughter-in-law; or grandparent(s), parent(s) and grandchild(ren). Children includes adopted children but not foster children.

Siblings: Brother(s) and sister(s)

Spouses of Siblings: Brother(s) and sister(s)-in-law; sister(s) and brother(s)-in-law; brother(s) and brother(s)-in law; and sister(s) and sister(s)-in-law

Examples that do not meet the relationship requirements:

- Aunt/uncle and nieces/nephews

Note:

- Conveyance can be to or from the entity
 - Transfer must, in all cases, be for no consideration other than the assumption of debt or the acquisition of interest in the corporation, partnership or limited liability company
- Conveyances from a corporation have an additional requirement. The corporation must have owned the property for three or more years.

4. Can another entity be a member of an LLC and be exempt from transfer fee per state law (sec. 77.25(15s), Wis. Stats.)?

No. Transfer fees are due on conveyances to or from entities when another entity is the member, partner, or shareholder of that entity. The use of Exemptions 15, 15m, and 15s requires the entity ownership to be a human(s). This was decided by F.M. Management Company Limited Partnership and F.M. Real Estate Company, LLC, v. Wisconsin Department of Revenue, 2007 WI App 125, Appeal No. 03-1536.

5. Is a quit claim deed from a general partnership to a limited liability company subject to a transfer fee?

Yes. A conveyance between a limited liability company and a general partnership is subject to transfer fee.

6. If a corporation (or partnership) transfers its real estate to its LLC and the ownership in the corporation (or partnership) and LLC are identical, is this exempt from fee under state law (sec. 77.25(6m), Wis. Stats.)?

No. A transfer fee is due on conveyance between separate entities with identical ownership. The "conversion" exemption is "pursuant to the conversion of a business entity to another form of business entity under state law (sec. 178.1141, 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats.), if, after the conversion, the ownership interests in the new entity are identical with the ownership interests in the original entity immediately preceding the conversion."

Also, Exemptions 15, 15m, or 15s under sec. 77.25, Wis. Stats., do not apply since this is a conveyance between entities and not between individuals who are related as family members. For additional information, refer to the Turner, d/b/a Epcu, Limited Partnership of Wisconsin, v. Wisconsin Department of Revenue, 2004 WI App 82, Appeal No. 03-1517.

7. I am conveying property from my revocable trust (which I am the trustee) to my limited liability company (LLC), is this exempt from transfer fee?

The conveyance is exempt from transfer fee under state law (sec. 77.25(15s), Wis. Stats.), provided the conveyance was from the trustee, the trustee is a member of the LLC and all of the members are related as required by the exemption.

8. **The successful bidder at the sheriff's sale was an LLC. The only members of the LLC are the defendants related as husband and wife. In essence, they purchased their own house, but in the name of the LLC. The LLC was in existence prior to the commencement of the foreclosure and the sheriff's sale. Is this transfer exempt under state law (sec. 77.25(15s), Wis. Stats.), since the husband and wife are the only members of the Grantee (LLC)?**

No. The conveyance is not exempt per state law (sec. 77.25(15s), Wis. Stats.), since the exemption requires the conveyance be for no consideration. A purchase at a Sheriff sale does not meet that requirement. Sec. 77.25(14), Wis. Stats., does not apply either because the LLC is considered a "third party" since it was not the mortgage holder. However, the transfer would be exempt under the "two step" method if the individuals are the successful bidders, take title using Exemption 14 and then convey into their LLC using (15s).

9. **An LLC will be dissolved. The LLC owns some condo units and plans to deed a unit to each member of the LLC. The members are unrelated to each other, so they cannot use Exemption 15s. There is a mortgage on all the units held by the LLC and the individual members will take a loan out on their individual units to have the LLC's outstanding mortgage released. Is there a transfer fee due for each unit or can they use either Exemption 5 for partition or Exemption 10 to release a security or debt?**

Yes. There is a transfer fee due for each unit. No transfer fee exemption applies to these conveyances. A transfer fee is due for each deed from the members based on each unit's fair market value.

Exemption 5 does not apply - since the definition of partition is not met. Partition is defined under state law (sec. 77.21(1k), Wis. Stats.), as "the division among several persons of real property, including noncontiguous real property, that belongs to them as co-owners." The facts do not fit within the definition of partition since the individuals do not own the real estate; the LLC owns the real estate. The individuals own the membership in the LLC which is personal property.

Exemption 10 does not apply - since there is a conveyance of real estate and not "solely to provide or release Security for a debt." Exemption 10 only applies when a deed is used or serves as a mortgage or lien.

10. **Property is in a revocable living trust. The trust uses the same Social Security Number as the settlor/trustee (father). The trustee's children are the beneficiaries. The trustee now wants to convey the real estate to a limited liability company (LLC) whose only members are his children. Is there a fee due if we deed the real estate directly to the LLC?**

Yes. A fee is due since the only members of the LLC are the children and not the father/trustee. Exemption 77.25(15s), Wis. Stats., requires the grantor (the trustee in this case) to be a member along with the other family members. Since the LLC is not a beneficiary under the trust, the requirements of sec. 77.25(9), Wis. Stats. are not met.

This conveyance could be exempt if the following steps are taken:

- Conveys from the trust to the father who is a beneficiary under sec. 77.25(9), Wis. Stats.
- Father conveys by gift to children under sec. 77.25(8), Wis. Stats.
- Children convey to LLC under sec. 77.25(15s), Wis. Stats.

Note: To be exempt, the multi-step procedure must be taken as determined in other court decisions such as *Turner, d/b/a Epco, Limited Partnership of Wisconsin, v. Wisconsin Department of Revenue*, 2004 WI App 82, Appeal No. 03-1517.

11. I am selling a membership interest in my LLC where the LLC name will remain the same. The only change will be the members who own the LLC. Do I need to file a deed and pay a transfer fee since the members are not related?

Since a change in the membership interest only is considered personal property, it is not subject to a transfer return if a deed is recorded showing the members of the LLC. This is similar to selling stock in a corporation. There is no conveyance of real property and a deed does not need to be recorded.

Example:

XYZ, LLC is owned by 1, 2 and 3 and title to the property is in the name of XYZ, LLC. The members sell their membership interest to 4, 5 and 6. XYZ, LLC still has title to the property and does not have to record a deed since the real property was not conveyed. If a deed or other document is recorded to show who the current members are, you must include a statement on the document saying, "This is being recorded to indicate the current members of XYZ, LLC and is not a conveyance of real property per sec. 77.21(1), Wis. Stats."

Note: If the name of the LLC is changing then a transfer return is required and Exemption 3 applies.

12. AB, LLC holds title to real estate and consists of two unrelated individuals, X and Y. Y sells his membership to X. AB, LLC continues as always, but X wants to record a deed indicating AB, LLC is now a solely owned LLC. Is this transaction exempt from transfer return and fee?

Yes. Since selling membership in an LLC is personal property, nothing needs to be recorded since there is not a real property conveyance. When a deed is recorded ONLY indicating a change in membership interest (AB, LLC; consisting of X and Y, as grantor quit claims to AB, LLC; consisting of X, as grantee), it is exempt from the transfer return and fee. To exempt the recording from a transfer return, add a description stating, "This is a conveyance of a membership interest only and not a conveyance of real property, and no return or fee are due per sec. 77.21(1), Wis. Stats."

Note: If the name of the LLC is changing then a transfer return is required and Exemption 3 applies.

13. A married couple own real property together. They want to convey it directly into an LLC where only one of the spouses is a member. Would this be exempt from transfer fee?

No. There is a fee on one half the value of the real estate conveyed. Since one of the spouses is not a member of the LLC, they do not meet the relationship requirement and the conveyance is treated the same as with any unrelated party. However, two steps could be done: (1) The non-member spouse could convey his/her half interest to the member-spouse under Exemption 8m, and then (2) the member-spouse could convey the entire interest to the LLC under Exemption 15s.

Note: The same would apply to a conveyance from an LLC to spouses where only one is a member. Again, two steps could be done: (1) LLC to member-spouse under Exemption 15s, and then (2) spouse to spouse and spouse under Exemption 8m.

14. If the sole members of an LLC are "A" and "B," and are also sole partners in a partnership, would the following relationship between "A" and "B" qualify for the Exemptions 15m and 15s? The partnership wants to convey real property to the LLC. "A" has a sister "C" who is married to "D" who is the brother of "B." Since a direct conveyance from the partnership to the LLC would result in a transfer fee being imposed, regardless of the relationship of the partners and members, we are proposing a conveyance from the partnership to the individuals using Exemption 15m and then from the individuals to the LLC using Exemption 15s. Are "A" and "B" related as required for the exemptions?

As to the relationship of "A" and "B", they would not qualify under the exemptions. Since "C's" husband "D" is the brother of "B," "A" and "B" are not considered in-laws per state law (sec. 77.25 (15s), Wis. Stats.). A brother-in-law is the brother of one's spouse. Therefore, while "A" and "D" would be in-laws, "A" and "B" would not.

15. "A" was the brother-in-law of "B" and both are the sole members of A B, LLC that owns real estate. "A" is now divorced from "B's" sister. Can they liquidate the LLC and exempt the conveyance from fee per state law (sec. 77.25(15s), Wis. Stats.)?

No. The divorce terminated the relationship as in-laws; therefore, Exemption 15s does not apply and a transfer fee is imposed on the property's fair market value.

16. Would a conveyance of real estate from an LLC with multiple members to just one member in the LLC upon liquidation, be subject to transfer fee?

If all of the members are not related as required by Exemption 15s, a transfer fee is due on the property's full value.

FOR MORE INFORMATION CONTACT:

MS 6-97

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Email additional questions to DORERealEstateTransfer@wisconsin.gov

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Affidavit of
Correction

- Date of
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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - M

Merger - MC-500 Report Requirements

1. What are the filing requirements for mergers or conversions with an effective date of July 1, 2016 or after, under state law (sec. 73.14, Wis. Stats.)?
2. What are the filing requirements for mergers or conversions with an effective date prior to July 1, 2016 under state law (sec. 73.14, Wis. Stats.)?

Mineral Rights

1. Did the Wisconsin Department of Revenue change its requirement of filing a real estate transfer return and fee on mineral and timber rights?
2. How is the transfer fee calculated on a mineral lease?
3. When a lease is recorded and a transfer fee is paid for a mineral lease to extract gravel for a future road project, and the road project goes to another contractor, the lease is terminated and all consideration paid is returned according to the lease terms. Is the transfer fee that was paid with the recording of the lease eligible for a refund?

Mobile Homes

1. A mobile home on a lot (owned by the mobile home owner), on a foundation (including blocks) and hooked to water, sewer and other utilities is sold. Is the conveyance subject to the transfer fee?
2. A mobile home on a leased site, on a foundation and hooked to water, sewer and other utilities is sold. Is the conveyance subject to the transfer fee?

Merger - MC-500 Report Requirements

1. **What are the filing requirements for mergers or conversions with an effective date of July 1, 2016 or after, under state law (sec. 73.14, Wis. Stats.)?**
 There are no filing requirements. Under the 2015 Act 295, the requirement to file the MC-500 Merger Conversion Report required under state law (sec 73.14, Wis. Stats.) was repealed.
2. **What are the filing requirements for mergers or conversions with an effective date prior to July 1, 2016 under state law (sec. 73.14, Wis. Stats.)?**
 If an acquired business entity in a merger (or the converted business entity in a conversion) had a fee simple ownership interest in any Wisconsin real estate immediately before the merger (or conversion), the surviving business must submit the MC-500 Report to the

Wisconsin Department of Revenue no later than 60 days after the effective date of the merger (or conversion). Failure to file the report within the timeframe, or to specify each of the municipalities affected, results in penalties under state law (sec. 73.14(2), Wis. Stats.). It is optional to record deeds changing title to the property with the county Register of Deeds.

- Provides information on the name/ownership change so record title and the address for future tax bills can be updated for the property(s) listed
- New owner's name is listed under the "Surviving Entity." The tax bill should be sent to the new owner at the address listed in the property description section.
- If a tax bill address is not specified in the property description section, the tax bill should be sent to the person authorized to submit the report, which is located at the bottom of the report
- Located on our website at: www.revenue.wi.gov/Pages/RETr/merger.aspx

Note: Under state law (sec. 73.14(2)(a), Wis. Stats.), you are charged a \$200 penalty for each day the report is late, not to exceed \$7,500.

Mineral Rights

1. Did the Wisconsin Department of Revenue change its requirement of filing a real estate transfer return and fee on mineral and timber rights?

No. Our position is the same. Whenever there is a conveyance of mineral or timber rights, an electronic real estate transfer return is required since it is a conveyance of real estate per state law (sec. 77.21(1m), Wis. Stats.). A transfer fee is required unless specifically exempt from fee under sec. 77.25, Wis. Stats.

Note: Any type of document, lease, assignment of lease, deed or any other instrument conveying a mineral or timber interest is subject to transfer return and transfer fee unless specifically exempt from fee under sec. 77.25, Wis. Stats.

2. How is the transfer fee calculated on a mineral lease?

The transfer fee is calculated on the amount of the full actual consideration paid or to be paid, per state law (sec. 77.21(3) (a), Wis. Stats.).

Examples of a gravel lease for calculating the fee when the lease is signed:

- **Single Payment** - when the lease is paid by a single payment based on an estimate of what will be extracted with no future payments or royalties
 - You must submit a transfer return and fee based on the single payment amount
 - If the amount of what is extracted exceeds the value originally reported, you must file an "Amended Real Estate Transfer Return" to report the additional consideration and pay the additional transfer fee due
- **Royalty/installment** - when the amount of gravel to be extracted is unknown, and you only make a down payment with future royalties or other types of future payments to be made based on extraction
 - The fee is initially imposed on the down payment when the document is recorded
 - When additional payments are made, you must file an "Amended Real Estate Transfer Return" to report the additional consideration paid for each payment

- **No payment/consideration** - when there is no down payment or other consideration paid when the lease is recorded and only royalties or other type payments are to be made based upon extraction, on the transfer return
 - You may use exemption sec. 77.25(13), Wis. Stats., as a conveyance of real estate having a "value of \$1,000.00 or less"
 - When additional payments are made, you must file an "Amended Real Estate Transfer Return" to report the consideration paid for each payment

3. When a lease is recorded and a transfer fee is paid for a mineral lease to extract gravel for a future road project, and the road project goes to another contractor, the lease is terminated and all consideration paid is returned according to the lease terms. Is the transfer fee that was paid with the recording of the lease eligible for a refund?

Yes. Since the lease was terminated without any gravel being taken and no consideration given, Exemption (13) can be used. Complete an "Amended Real Estate Transfer Return". Since the transfer fee is assessed against the grantor per state law (sec. 77.22, Wis. Stats.), refunds are issued to the grantor unless specifically requested otherwise.

Note: All refund claims must be made within four years of the date the mineral lease is recorded per sec. 77.26(3), Wis. Stats.

Mobile Homes

1. A mobile home on a lot (owned by the mobile home owner), on a foundation (including blocks) and hooked to water, sewer and other utilities is sold. Is the conveyance subject to the transfer fee?

The mobile home is classified as real estate and subject to fee when it is:

- On land owned by the homeowner
- On a foundation (includes blocks)
- Hooked to utilities

If any of the above are not met, it is considered personal property and not subject to a transfer fee.

2. A mobile home on a leased site, on a foundation and hooked to water, sewer and other utilities is sold. Is the conveyance subject to the transfer fee?

Yes. Even though a mobile home is defined per sec. 70.043(2), Wis. Stats., as personal property for property tax purposes per state law (sec. 77.21(1m), Wis. Stats.), real estate includes improvements on leased land for transfer fee purposes.

Note: A transfer fee is not due if you complete and submit the mobile home's title to the Wisconsin Department of Transportation to convey title to the new owner.

FOR MORE INFORMATION CONTACT:

MS 6-97

WISCONSIN DEPARTMENT OF REVENUE

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions N-P

Non-Profit Organizations

1. Is there an exemption that applies for a conveyance to or from a nonprofit organization or church?
2. What does the exemption under sec. 77.25(20), Wis. Stats. mean?

Parcels

1. There are two adjoining parcels with two tax parcel numbers. Before a garage can be built on the vacant parcel, the parcels must be combined under one legal description for zoning purposes. Does a transfer return need to be filed when filing the deed combining the lots?
2. Is the property lister responsible for adding or deleting parcel numbers on an Electronic Real Estate Transfer Return that are wrong, incomplete or missing?
3. My neighbor and I had a new survey done and we need to record a deed correcting the lot line between us. Is a transfer return required for a lot line correction?

Parent Child

1. A mother sold the family home to her son and daughter-in-law. Is there a transfer fee due on this amount?
2. If parents gift their home to their son and daughter-in-law, is it exempt under state law (sec. 77.25(8), Wis. Stats.)?
3. My father is giving my husband and I a home valued at \$121,000. We are assuming the mortgage to pay the remaining \$77,000. Are we exempt from fee and how do we complete the eRETR?
4. A father and two sons own one-third each on three properties. One son is deeding his one-third interest in each property to his father and brother. The mortgage is \$360,000 and the real estate value is \$300,000 for the properties. What is the value subject to transfer fee?

Partition

1. Two individuals own a piece of land that is now split into two parcels. The individuals now own two parcels that they would like to transfer so each individual owns his own parcel. Is a transfer fee due or can an exemption be used?
2. An aunt, uncle, niece and nephew all own a single parcel together and want to partition it into four equal lots, with one lot going to each party. Is a transfer fee due, or is there an exemption available?

3. Two single-member LLCs hold title as tenants-in-common to six condominium units and are interested in splitting up these properties. Is a transfer fee due on the value of each condo unit, or does Exemption 5, on partition apply?
4. How do you complete the transfer returns when there is an uneven division of real estate among co-owners? Assume three siblings jointly own three properties: Property 1 has a fair market value of \$60,000, and properties 2 and 3 have a value of \$90,000 each. Sibling A receives property 1, sibling B receives property 2, and sibling C receives property 3.

Partnerships

1. Is a quit claim deed for a partnership filing or canceling a statement of qualification effective July 1, 2016 or after under state law (sec. 178.0901, Wis. Stats.), subject to a transfer fee?
2. Is a quit claim deed for a general partnership registering to be a limited liability partnership effective prior to July 1, 2016 under state law (sec. 178.40, Wis. Stats.), subject to a transfer fee?
3. Can a partnership convert to a limited liability company with an effective date of July 1, 2016 or after, and be exempt per state law (sec. 77.25(6m), Stats.)?
4. Can a general partnership convert to a limited liability company with an effective date prior to July 1, 2016 and be exempt per state law (sec. 77.25(6m), Stats.)?
5. Is a quit claim deed from a general partnership to a limited liability company subject to a transfer fee?
6. What are some examples of required relationships for Exemption 15 for corporations, 15m partnerships and 15s limited liability companies
7. Is a transfer of real estate from a partnership to partners who are not related, subject to a transfer fee?

Penalties

1. If a transfer fee amount due is understated or an improper exemption is taken, can the Wisconsin Department of Revenue (DOR) assess a penalty? Can the penalty be waived?

Personal Property

1. A real estate parcel being sold has items listed as "personal property" for the property tax exemption as defined by Chapter 70. Are these items also exempt from transfer fee?

Non-Profit Organizations

1. **Is there an exemption that applies for a conveyance to or from a nonprofit organization or church?**

There is no exemption for conveyances to or from a nonprofit organization or church per administrative rule (Tax 15.03(5), Wis. Adm. Code). The fee is based on the property's fair market value if the conveyance is a gift or deed of nominal consideration. If the conveyance is a sale, the sales price should be used.

2. **What does the exemption under sec. 77.25(20), Wis. Stats. mean?**

Exemption 20 is for a conveyance made under sec. 184.15, Wis. Stats. to a "nonprofit association" as defined under sec. 184.01(2), Wis. Stats.

1997 Wisconsin Act 140 adopted the Uniform Unincorporated Nonprofit Association Act. The Act defines a nonprofit association as an unincorporated organization consisting of three or more "members" joined by mutual consent for a common, nonprofit purpose and permits the nonprofit association, in its own name, to acquire, hold, encumber or transfer real or personal property. Prior to this section, property was held by a fiduciary for the nonprofit association.

Exemption 20 allows the fiduciary to convey the vested estate or interest to the nonprofit association in its own name per "184.15 Transfers by a Fiduciary" without incurring a transfer fee.

Parcels

1. **There are two adjoining parcels with two tax parcel numbers. Before a garage can be built on the vacant parcel, the parcels must be combined under one legal description for zoning purposes. Does a transfer return need to be filed when filing the deed combining the lots?**

No. If the same entity or individual is listed as the owner of the two parcels, ownership is not changing and real estate interest is not conveyed. The document should include a statement, such as "This document is intended to combine the legal description of two parcels under the same ownership and is not a conveyance per sec. 77.21(1), Wis. Stats."

2. **Is the property lister responsible for adding or deleting parcel numbers on an Electronic Real Estate Transfer Return that are wrong, incomplete or missing?**

No. However, it is correct that the property lister can edit parcel numbers for accuracy. It is very important the receipt "mirrors" the document for grantors, grantees and parcels. The property lister and the Wisconsin Department of Revenue are not responsible for completing the transfer return by adding parcels. It is the filer's responsibility to submit a complete return. The Electronic Real Estate Transfer Return (eRETR) business rules insure all required items are completed. However, eRETR cannot check that all grantors, grantees and parcels are included.

Criteria for an eRETR:

- o **All parcels** listed on the document are on the Receipt
- o When there are five or fewer parcels, each must be listed in a separate parcel section (Add Parcel)
- o When there are more than five parcels, the first five must be listed separately under "Parcels" and the remainder may be listed separately on the Legal description page
- o **Note:** If your county does not require parcel numbers on the document (they are required on the return), you can verify the property using the legal description.

For more information on eRETR criteria, visit: revenue.wi.gov/Pages/Publications/slf-pe100e.aspx

3. **My neighbor and I had a new survey done and we need to record a deed correcting the lot line between us. Is a transfer return required for a lot line correction?**

Yes. You must submit a transfer return when correcting a lot line. Depending on how it is recorded, you could do one of the following:

- Correct the previously recorded legal description, which is exempt from fee under state law (sec. 77.25(3), Wis. Stats.)
- Convey real estate having a value of \$1,000 or less, which is exempt from fee under state law (sec. 77.25(13), Wis. Stats.)

Parent Child

1. **A mother sold the family home to her son and daughter-in-law. Is there a transfer fee due on this amount?**

Yes. Since this is a sale and there is consideration, a transfer fee is due. Exemption 8 not only requires that the conveyance be between a parent and child, it also requires that the transfer is for no consideration.

2. **If parents gift their home to their son and daughter-in-law, is it exempt under state law (sec. 77.25(8), Wis. Stats.)?**

Yes. Exemption 77.25(8) applies since that is no consideration: "Between parent and child, stepparent and stepchild, parent and son-in-law or parent and daughter-in-law for nominal or no consideration."

Note: At the time of conveyance, if there is any kind of mortgage attached to the property, then there is consideration and a transfer fee is due on the debt.

3. **My father is giving my husband and I a home valued at \$121,000. We are assuming the mortgage to pay the remaining \$77,000. Are we exempt from fee and how do we complete the eRETR?**

The exemption under sec. 77.25(8), Wis. Stats., requires the conveyance to be between parent and child and for no consideration. Since you are assuming the remaining mortgage, your situation does not meet the requirement of "no consideration." You must pay the transfer fee on the \$77,000. Exemption 8 would apply as a gift for the equity of \$44,000 conveyed.

Complete the eRETR as follows:

- Transfer type: Select "Sale" and "Gift"
- Financing: Check "Assumed existing financing"
- Total value of real estate transferred: \$121,000
- Value subject to fee: \$77,000
- Select Exemption 8

4. **A father and two sons own one-third each on three properties. One son is deeding his one-third interest in each property to his father and brother. The mortgage is \$360,000 and the real estate value is \$300,000 for the properties. What is the value subject to transfer fee?**

- Since there is no exemption for a conveyance between brothers, fair market value (\$300,000) is used in determining half the transfer fee
- Since the mortgage is consideration, the conveyances between the parent and child is subject to fee on the debt (mortgage \$360,000) and is used in determining half the transfer fee
- Equity conveyed by child to parent is covered by Exemption 8
- Value subject to fee in this case is on \$110,000. Calculated as follows: one-half of one-third of the fair market value for the brother to brother conveyance plus one-half of one-third of the mortgage balance for the father to son conveyance

Partition

1. **Two individuals own a piece of land that is now split into two parcels. The individuals now own two parcels that they would like to transfer so each individual owns his own parcel. Is a transfer fee due or can an exemption be used?**

If the value of each parcel is equal, then each of the two deeds being filed meets the requirements of the Exemption 5 (state law sec. 77.25(5) Wis. Stats.), for deeds of partition. Each parcel's value to be conveyed should be indicated on the transfer return as half the total value of the lot, since each party is conveying his/her half interest in the property to the other. In such case, no transfer fee is due.

Example: Each lot is valued at \$50,000. On each transfer return, report \$25,000 as the real estate value conveyed. Report \$0 value subject to transfer fee, and claim Exemption 5.

2. **An aunt, uncle, niece and nephew all own a single parcel together and want to partition it into four equal lots, with one lot going to each party. Is a transfer fee due, or is there an exemption available?**

If the value of each parcel is equal, then these deeds being filed meet the requirements of Exemption 5, for a deed(s) of partition. The value conveyed for each transfer return is three-fourths of the total value of the other three lots they are conveying their one-fourth interest in to the one receiving the lot.

Example: The original parcel is worth \$120,000 and each resulting lot is valued at \$30,000. For each transfer return, you would report \$22,500 as the real estate value conveyed (3 conveying owners x 1/4 interest, each worth \$7,500). Report \$0 value subject to transfer fee, and claim Exemption 5.

3. **Two single-member LLCs hold title as tenants-in-common to six condominium units and are interested in splitting up these properties. Is a transfer fee due on the value of each condo unit, or does Exemption 5, on partition apply?**

No transfer fee is due if the total values of the interests each LLC receives are the same. Transfer fees are due if the values are unequal.

Example: LLC A is conveying units 3, 4 and 9 to LLC B; LLC B is conveying units 10, 11 and 12 plus \$11,000 cash to LLC A.

The exemption in sec. 77.25(5) for partition applies whether the co-owners are individuals, entities or a combination of either. Here the two owners are going to divide the six condo units between them. The exemption in sec. 77.25(5) Wis. Stats., for partition applies to the degree that the partition is equal, but the cash boot (cash paid) of \$11,000 is subject to transfer fee. The party receiving the cash boot, LLC A, is the party that owes the transfer fee because they are giving up more value of real estate than they are receiving, and are considered the grantor of the difference in value. The return for LLC A would use Exemption 5 for the portion that qualifies as a partition, and a fee would be due on the cash boot of \$11,000.

4. **How do you complete the transfer returns when there is an uneven division of real estate among co-owners? Assume three siblings jointly own three properties: Property 1 has a fair market value of \$60,000, and properties 2 and 3 have a value of \$90,000 each. Sibling A receives property 1, sibling B receives property 2, and sibling C receives property 3.**

On three transfer returns, the values of the properties should be allocated as follows:

Property 1 to Sibling A:

Name	Value Prior	Value After	Value Change
Grantor: Sibling B	\$20,000	\$ 0.00	(\$20,000)
Grantor: Sibling C	\$20,000	\$ 0.00	(\$20,000)
Grantee: Sibling A	\$20,000	\$60,000	\$40,000
Total FMV	\$60,000	\$60,000	\$0

Property 2 to Sibling B:

Name	Value Prior	Value After	Value Change
Grantor: Sibling A	\$30,000	\$ 0.00	(\$30,000)
Grantor: Sibling C	\$30,000	\$ 0.00	(\$30,000)
Grantee: Sibling B	\$30,000	\$90,000	\$60,000
Total FMV	\$90,000	\$90,000	\$0

Property 3 to Sibling C:

Name	Value Prior	Value After	Value Change
Grantor: Sibling A	\$30,000	\$ 0.00	(\$30,000)
Grantor: Sibling B	\$30,000	\$ 0.00	(\$30,000)
Grantee: Sibling C	\$30,000	\$60,000	\$60,000
Total FMV	\$90,000	\$60,000	\$0

Summary

Name	Value Prior	Value After	Value Change
Sibling A	\$80,000	\$ 0.00	(\$20,000)
Sibling B	\$80,000	\$ 0.00	\$10,000
Sibling C	\$80,000	\$60,000	\$10,000
Total FMV	\$240,000	\$60,000	\$0

Example summary - in a true partition, there is no gain (or loss) of value of ownership interest; the property is divided equally in value among the owners. In this example, sibling A conveyed an interest in value of \$20,000. The fee due on the value of \$20,000 is allocated on the transfer returns for the deeds to Properties 2 and 3, where sibling A is the grantor. Siblings B and C gained an interest over all; therefore, they did not "convey" a value in the real property and are not subject to transfer fee per state law (sec. 77.25(5), Wis. Stats.).

Completing the returns for the deed of:**Property 1 from B and C to Sibling A**

- a. Type of Transfer: Check "Other" and explain "partition"
- b. Total value of Real Estate transferred: \$40,000
- c. Transfer Fee: \$0.00
- d. Exemption: 5 applies to B and C as there is no gain or loss in value

Property 2 from A and C to Sibling B

- e. Type of Transfer: Check "Other" and explain "partition"
- f. Total value of Real Estate transferred: \$60,000
- g. Transfer Fee: \$30.00 (payable by A for \$10,000, being one-half the \$20,000 value differential)
- h. Exemption: 5

Property 3 from A and B to Sibling C

- i. Type of Transfer: Check "Other" and provide the explanation "partition"
- j. Total Value of Real Estate transferred: \$60,000
- k. Transfer Fee: \$30.00 (payable by A for \$10,000, being one-half the \$20,000 value differential)
- l. Exemption: 5

Note: The property value is determined by each property's fair market value per state law (sec.77.21 (3), Wis. Stats.). Do not adjust the fair market value by the amount of any liens on the property.

Partnerships

1. **Is a quit claim deed for a partnership filing or canceling a statement of qualification effective July 1, 2016 or after under state law (sec. 178.0901, Wis. Stats.), subject to a transfer fee?**

No. A deed filed for a partnership filing or canceling a statement of qualification is exempt from transfer fee under state law (sec. 77.25(6d), Wis. Stats.).

2. **Is a quit claim deed for a general partnership registering to be a limited liability partnership effective prior to July 1, 2016 under state law (sec. 178.40, Wis. Stats.), subject to a transfer fee?**

No. A general partnership registering as a limited liability partnership, is exempt under state law (sec. 77.25(6d), Wis. Stats.). "Pursuant to partnerships registering as limited liability partnerships under sec. 178.40, Wis. Stats." Exemption 6d is only for a general partnership registering as a limited liability partnership.

3. **Can a partnership convert to a limited liability company with an effective date of July 1, 2016 or after, and be exempt per state law (sec. 77.25(6m), Stats.)?**

Yes. Effective July 1, 2016 or after, the exemption applies when converting a business entity to another form of business entity under state law (sec. 178.1141, 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats.).

- o Sec. 178.1141(1) - domestic partnership may convert to another type of domestic entity, other than a domestic partnership, or to any type of foreign entity, under secs. 178.1141 to 178.1145, Wis. Stats., and a plan of conversion if the conversion is permitted under

the governing law of the converting entity and the governing law to be applied to the converted entity

- Sec. 178.1141(2) - foreign or domestic entity, other than a domestic partnership, may convert to a domestic partnership under secs. 178.1141 to 178.1145, Wis. Stats., and a plan of conversion if the conversion is permitted under the governing law of the converting entity and the converted entity satisfies the definition of a partnership under this chapter immediately after the conversion
- Sec. 179.76(1) - domestic limited partnership may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic limited partnership is converting
- Sec. 179.76(2) - business entity other than a domestic limited partnership may convert to a domestic limited partnership if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity
- Sec. 180.1161(1)(a) - domestic (business) corporation may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic corporation is converting
- Sec. 180.1161(2)(a) - business entity other than a domestic corporation may convert to a domestic corporation if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity
- Sec. 181.1161(1)(a) - domestic (non-stock) corporation may register to be another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic corporation is converting
- Sec. 181.1161(2)(a) - business entity other than a domestic (non-stock) corporation may convert to a domestic corporation if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity.
- Sec. 183.1207(1)(a) - domestic limited liability company may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction governing the organization of the business entity into which the domestic limited liability company is converting
- Sec. 183.1207(2)(a) - business entity other than a domestic limited liability company may convert to a domestic limited liability company if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity

4. Can a general partnership convert to a limited liability company with an effective date prior to July 1, 2016 and be exempt per state law (sec. 77.25(6m), Stats.)?

No. Prior to July 1, 2016, the exemption only applies when converting a business entity to another form of business entity under state law (sec. 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats).

Note: Prior to July 1, 2016, a general partnership can only register to be a limited liability partnership under state law (sec. 77.25(6d), Wis. Stats.), which provides, "Pursuant to partnerships registering as limited liability partnerships under sec. 178.40, Wis. Stats." and cannot be combined with sec. 77.25(6m), Wis. Stats.

5. Is a quit claim deed from a general partnership to a limited liability company subject to a transfer fee?

Yes. A conveyance between a limited liability company and a general partnership is subject to transfer fee.

6. What are some examples of required relationships for Exemption 15 for corporations, 15m partnerships and 15s limited liability companies?

All exemptions under sec. 77.25(15), (15m) and (15s), Wis. Stats., require the transfer to be between the entity and one or more owners "who are related to each other as spouses, lineal ascendants, lineal descendants, siblings or spouses of siblings." Examples that qualify for the exemption include the following:

- **Sole ownership:** Sole individual
- **Spouses:** Spouse and spouse
- **Lineal:** Parent(s) and child(ren); parent(s) and son-in-law/daughter-in-law; or grandparent(s), parent(s) and grandchild(ren). Children includes adopted children but not foster children.
- **Siblings:** Brother(s) and sister(s)
- **Spouses of Siblings:** Brother(s) and sister(s)-in-law; sister(s) and brother(s)-in-law; brother(s) and brother(s)-in law; and sister(s) and sister(s)-in-law.

Examples that do not meet the relationship requirements:

- Aunt/uncle and nieces/nephews

Note:

- Conveyance can be to or from the entity
 - Transfer must, in all cases, be for no consideration other than the assumption of debt or the acquisition of an interest in the corporation, partnership or limited liability company
- Conveyances from a corporation have an additional requirement. The corporation must have owned the property for three or more years.

7. Is a transfer of real estate from a partnership to partners who are not related, subject to a transfer fee?

Yes. The only possible exemption for a conveyance between a partnership and the partners is the exemption in state law (sec. 77.25(15m), Wis. Stats.). Since the partners are not related as required by the exemption, a transfer fee is due on the total fair market value of the real estate conveyed.

Exemption 15m applies to transactions "Between a partnership and one or more partners if all of the partners are related to each other as spouses, lineal ascendants, lineal descendants, or spouses of siblings and if the transfer is for no consideration other than the assumption of debt or an interest in the partnership."

Penalties

- 1. If a transfer fee amount due is understated or an improper exemption is taken, can the Wisconsin Department of Revenue (DOR) assess a penalty? Can the penalty be waived?**

A penalty assessed under state law (sec. 77.26(8), Wis. Stats.), "If the Department of Revenue determines that the value reported on the return under sec. 77.22 is understated by 25 percent or more, or that an exemption was improperly claimed under sec. 77.25, the department shall assess and collect a penalty of \$25 or 25 percent of the additional fee due, whichever is greater, in the manner that additional transfer fees are collected."

DOR cannot waive the penalty under state law (sec.77.26 (8) Wis. Stats.) The statute uses the word "shall," and in statutory interpretation the use of the word "shall" generally creates a mandatory duty. See F.M. Management Company Limited Partnership and F.M. Real Estate Company, LLC, v. Wisconsin Department of Revenue, 2007 WI App 125, Appeal No. 03-1536.

Personal Property

- 1. A real estate parcel being sold has items listed as "personal property" for the property tax exemption as defined by Chapter 70. Are these items also exempt from transfer fee?**

Not necessarily. If a personal property item is a fixture, is not exempt from the transfer fee, regardless of the property tax treatment. Fixtures, for transfer fee purposes, are defined as real property per state law (sec. 77.21(1m), Wis. Stats.), and are included in the total value of the real estate transferred. The value of such items are shown on the eRETR Fee Computation section, in both the "Total value of real estate transferred" and the "Value of property exempt from local property tax INCLUDED on Total Value of REAL ESTATE transferred" boxes.

To determine if an item is a fixture, answer the following general questions:

- **Is the article physically attached to the premises?**

If the item is attached (it cannot be removed without causing substantial damage to the remaining realty), it is generally considered a fixture

- **Is there any special "adaptation" between the article and the premises?**

If the fixture or the realty is built "specially" to accommodate the other, it is generally considered a fixture. The item in question has less value if it is removed and taken somewhere else.

- **Is the item something normally intended to be a permanent part of the premises?**

The test is what the average person normally intends for the item, not what the owner intended.

FOR MORE INFORMATION CONTACT:

MS 6-97

WISCONSIN DEPARTMENT OF REVENUE

Local Government Services Bureau

PO Box 8971

Madison, WI 53708-8971

Phone: (608) 264-6885 or (608) 266-1594

Fax: (608) 264-6897

Email additional questions to DORERealEstateTransfer@wisconsin.gov

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - R

Railroads

1. Does a railroad company need to file railroad conveyances with the Office of Commissioner of Railroads, even if it filed with the Register of Deeds?
2. The Register of Deeds returned the quit claim deed and transfer return indicating that per state law (sec. 190.11, Wis. Stats.), railroad conveyances must be filed with the Office of the Commissioner of Railroads (OCI). Payment of transfer fees are payable to OCI as stated in the statute. Is this true?

Receipts

1. Can two eRETR receipts be used with one deed?
2. Under what circumstances can the Register of Deeds reject an eRETR receipt?
3. A receipt has one grantor listed, while the deed has two. Is this receipt acceptable?
4. Are middle initials required on the receipt?
5. A receipt has 13 parcels showing and the deed has 19. How do I know if the return is correct?

Refunds

1. A transfer fee was paid; however, the conveyance is exempt from fee. How do I apply for a refund?
2. If a transfer fee is paid in the wrong county, how do I get a refund so the fee can be paid in the correct county?

Relocation Industry

1. In the relocation industry, companies usually take a deed as the grantee and a deed with no grantee listed. The grantor is paid and moves away. The relocation company puts the property on the market and at a later date sells it to another party and only records the deed to the new grantees. How may transfer fees be due?

Railroads

1. **Does a railroad company need to file railroad conveyances with the Office of Commissioner of Railroads, even if it filed with the Register of Deeds?**
 Yes. According to state law (sec. 190.11, Wis. Stats.), "Every conveyance or lease, deed of trust, mortgage or satisfaction shall be filed with the Office of Commissioner of Railroads (OCI) ...". If a railroad wants to record a railroad conveyance at both the county and with OCI, a

transfer return is required by each; however, only one transfer fee is required. If the document is first recorded with the county and the fee paid, then when the document conveying the same property is recorded at OCI, the transfer return is exempt from fee per sec. 77.25(3), Wis. Stats., as confirming a prior recorded document.

Note:

- Recording the instrument has the same effect as recording the instrument at the county Register of Deeds per sec. 190.11(2), Wis. Stats.
- Recording the railroad company's conveyances at the county Register of Deeds office is optional

2. The Register of Deeds returned the quit claim deed and transfer return indicating that per state law (sec. 190.11, Wis. Stats.), railroad conveyances must be filed with the Office of the Commissioner of Railroads (OCI). Payment of transfer fees are payable to OCI as stated in the statute. Is this true?

This is partially true. You must record railroad conveyances at OCI, but may also record them with the county Register of Deeds. It makes no difference whether you file first with OCI or the county. You must complete and file two returns; the first should accompany the transfer fee and the second claim Exemption 3 which "confirms ... a conveyance previously recorded."

Example: If you choose to record at the county Register of Deeds first, complete the return showing the fee due and pay the transfer fee to the Register of Deeds. After recording, the deed is sent back to the person indicated on the deed. Then when filing the deed with OCI, you must complete a new return claiming exemption sec. 77.25(3), Wis. Stats.; no fee will be due at that time. When using Exemption 3, you must provide the county's document number on the return for the conveyance with OCI.

Receipts

1. Can two eRETR receipts be used with one deed?

No. Only one transfer return is accepted per deed.

2. Under what circumstances can the Register of Deeds reject an eRETR receipt?

Under state law (sec. 77.22(1), Wis. Stats.), the Register of Deeds can only accept a properly completed real estate transfer return, with fee (if due), for a conveyance recording. Registers must verify that the receipt and the document being recorded are in agreement and reflect the proper county.

Registers should make sure all items required for a recording are present. These items, which are listed on the receipt, include:

- Document to be recorded
- eRETR receipt
- Transfer fee payment (if due)

Transfer fee amount - if a fee is due, it must be the same as the amount on the check or other method of payment. **Note:** For some transfers, there may be both a fee and an exemption, if the transfer is partially exempt.

Date of conveyance - date listed on the conveyance must be **on or before** the date of recording. Postdated conveyances should not be accepted.

Grantors and grantees - all grantors and grantees listed on the document must be listed on the receipt. An exception is a husband and wife with the same last name. In this case, the return may have both first names in the first name box; only one Social Security Number is required.

Parcels - all parcels listed on the document are listed on the receipt.

- o **Five or fewer parcels** - each must be listed in a separate parcel section (Add Parcel)
- o **More than five** - the first five must be listed separately under "Parcels" and the remainder may be listed separately on the "Legal description" page of the eRETR
- o **Parcel numbers** - are required on the return. If a county does not require parcel numbers on the document, property verification is accomplished by using the legal description.

Note: If any information on the receipt is changed, it must be rejected. Changing information on the receipt creates an inconsistency with the information on the eRETR.

Review criteria for an Electronic Real Estate Transfer Return (eRETR) at:

revenue.wi.gov/Pages/Publications/slf-pe100e.aspx

3. A receipt has one grantor listed, while the deed has two. Is this receipt acceptable?

No. All grantors and grantees named on the document must be on the receipt.

Exception: Husband and wife with the same last name may have both first names in the first name box. In this case, only one Social Security Number is required.

4. Are middle initials required on the receipt?

No. Middle initials are not required and are not needed on the receipt.

5. A receipt has 13 parcels showing and the deed has 19. How do I know if the return is correct?

The receipt is designed to print one page only. If there are a large number of grantors, grantees or parcels (these sections have the "Add" button), all parcels may not show on the eRETR receipt. If the conveyance includes more than five parcels, the preparer must enter at least five parcels in the Parcel section and enter the remainder on the Legal Description page of the eRETR. If the correct parcels are listed, enter the recording information. If the parcel listing is not correct, contact the preparer for a new receipt that includes all 19 parcels.

Refunds

1. A transfer fee was paid; however, the conveyance is exempt from fee. How do I apply for a refund?

- a. Complete a PE-500X "[Amended Real Estate Transfer Return](#)"
- b. Print and mail the amended eRETR with these items, to the address below:
 - Copy of the recorded deed
 - Information supporting the exemption claimed on the amended transfer return
 - Name(s) to receive the refund

Mailing address:
Wisconsin Department of Revenue
Transfer Fees

PO Box 8971, MS 6-97
Madison, WI 53708-8971

Example: You recorded a deed and paid the transfer fee on the full property value. You now claim Exemption 8 as a gift between parent and child. You must: submit a copy of the deed, evidence of the parent-child relationship, and a copy of [Form 709, United States Gift Tax Return](#) (if required by law), to show the conveyance was a gift without consideration.

2. If a transfer fee is paid in the wrong county, how do I get a refund so the fee can be paid in the correct county?

The county where the deed was incorrectly recorded issues you a full refund of the transfer fee paid. The county treasurer does not send the state the improperly paid transfer fee since there is no transfer return recorded for this incorrect county. Note: The recording fees paid to the incorrect county are not refundable by the Wisconsin Department of Revenue.

Relocation Industry

1. In the relocation industry, companies usually take a deed as the grantee and a deed with no grantee listed. The grantor is paid and moves away. The relocation company puts the property on the market and at a later date sells it to another party and only records the deed to the new grantees. How may transfer fees be due?

One transfer fee is due. Since the relocation company does not record the deed to itself, the Wisconsin Department of Revenue does not charge a second fee. The transfer to the relocation company is clearly a conveyance, but since the deed is not recorded there is no transfer fee due under state law (sec. 77.22(1), Wis. Stats.).

Note: If the relocation company records the deed to itself and at a later date sells the property to a third party, two transfer fees are due (both deeds are subject to a transfer fee). The second deed from the relocation company to a third party does not qualify for the use of Exemption 9 (agent to principal) since the relocation company did not buy this property as an agent for the third party.

FOR MORE INFORMATION CONTACT:

MS 6-97

WISCONSIN DEPARTMENT OF REVENUE

Local Government Services Bureau

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - S

Security for a Debt

1. Please explain the purpose of Exemption 10. It is my understanding a transaction claiming Exemption 10 does not transfer a real estate ownership interest. Is this correct? If so, should the Real Property Lister change the tax bill address?

Sheriff Sales

1. Is an Electronic Real Estate Transfer Return needed on Sheriff Sales?
2. When is a transfer fee due on a Sheriff's Deed?
3. When is there no transfer fee due on a Sheriff's Deed?
4. If a mortgage is assigned, does the mortgage assignment have to be recorded for state law (sec. 77.25(14), Wis. Stats.), to apply?
5. How do I complete the transfer return for a Sheriff's Deed?
6. The successful bidder at a sheriff's sale is an LLC. The only members of the LLC are the defendants, a husband and wife. They purchased their own house in the name of the LLC. The LLC was in existence prior to the commencement of the foreclosure and the sheriff's sale. Is this transfer exempt under state law (sec. 77.25(15s), Wis. Stats.), since the husband and wife are the only members of the Grantee (LLC)?
7. Does a transfer return need to be filed when an IRS Certificate of Sale of Seized Property (Form 2435) is recorded?

Short Sales

1. How is the transfer fee calculated on a "short sale" when the amount owed on a mortgage exceeds the purchase price?

Social Security Numbers

1. The Wisconsin Department of Revenue requires that Social Security Numbers (SSN/FEIN) are reported on the transfer return. Is this a law?
2. If there is more than one grantor or grantee, do I have to list a Social Security Number for each grantor and grantee?
3. If an individual buys property and does not have a Social Security Number, what does he or she report on the return?

4. If a grantor refuses to provide his or her Social Security Number, how can I record the deed without this information?
5. How does the Wisconsin Department of Revenue (DOR) ensure the eRETR information, especially the Social Security Numbers (SSN) and FEIN, are secure from identity theft?

Spouse to Spouse Conveyances

1. When does the "Between spouses" exemption under state law (sec. 77.25(8m), Wis. Stats.), apply?
-

Security for a Debt

1. **Please explain the purpose of Exemption 10. It is my understanding a transaction claiming Exemption 10 does not transfer a real estate ownership interest. Is this correct? If so, should the Real Property Lister change the tax bill address?**

Exemption 10 applies to a conveyance made to provide or release security for a debt, or obligation. Generally, these documents are a mortgage and satisfaction of mortgage, or deeds in satisfaction of a land contract. On occasion, a deed may be used like a mortgage to provide evidence of security for a debt and does not actually convey any interest in the real property.

Example: "A" borrows money from "B" and "B" would like security for the loan. "A" signs a mortgage deed to "B" securing the loan and stating the deed is for mortgage purposes. The mortgage deed is recorded and the transfer return claims Exemption 10. "B's" interest in the property is only as security for a loan. The mortgage deed does not give "B" any fee simple interest in the property. Once the loan is paid off, "B" can also deed the property back to "A" claiming Exemption 10, since "B" is releasing security for a debt. Since there is no conveyance of a fee simple interest in a situation where Exemption 10 is claimed, the Real Property Lister should not change the tax bill address unless "Tax Bill Mailing Address" on the eRETR is filled in.

Sheriff Sales

1. **Is an Electronic Real Estate Transfer Return needed on Sheriff Sales?**

Yes. A Real Estate Transfer Return is due for all Sheriff's Deeds, even if the deed is exempt from transfer fee.

2. **When is a transfer fee due on a Sheriff's Deed?**

A transfer fee is due whenever a third party is the successful bidder. A third party is defined as someone who is not holding a lien or mortgage on the property or, if under a land contract, is not the seller (vendor). Usually lien holders are listed as plaintiffs or defendants in the foreclosure judgment. If the original mortgage lender assigns the mortgage to another entity, that entity is now the lienholder.

When a transfer fee is due on a sheriff's sale, it is calculated on the successful bid amount.

3. **When is there no transfer fee due on a Sheriff's Deed?**

The exemption under state law (sec. 77.25(14), Wis. Stats.), applies when the conveyance is "Under a foreclosure or a deed in lieu of a foreclosure to a person holding a mortgage or to a seller under a land contract." To qualify for the exemption under the Sheriff's Deed, the grantee must be the mortgage holder, the holder of the vendor's interest in a land contract, or the owner of the property.

4. If a mortgage is assigned, does the mortgage assignment have to be recorded for state law (sec. 77.25(14), Wis. Stats.), to apply?

Generally, yes. The assignment does not have to be recorded to qualify for the exemption if the assignee is one of the following:

- Insurer (ex: HUD, Fannie Mae, Freddie Mac, VA)
- Another lender who actually holds the mortgage, if plaintiff was acting as servicing agent
- Subsidiary of the lender due to regulations prohibiting the lender from holding assets

Note: The Wisconsin Department of Revenue takes this position to allow assignment to the lender's subsidiary whether the assignment occurs before or after the sale is confirmed by the court. In the past, if the assignment was after the sale, a transfer fee was due on a conveyance to a subsidiary under administrative rule (Tax 15.03, Wis. Adm. Code).

5. How do I complete the transfer return for a Sheriff's Deed?

Include the proper name for Grantor (the debtor's/title holder's) name and his/her Social Security Number (SSN). If you cannot find the debtor's SSN and address after a reasonable search, you may enter all "9's" on the return. Since the Sheriff is acting as trustee/fiduciary for the debtor and does not have title to the property, the Sheriff is not the grantor and the exemption per state law (sec. 77.25(2), Wis. Stats.), **cannot be used**. Place the Sheriff's name, address and phone number as the grantor's agent. Complete the remaining sections of the return the same way you complete other conveyances.

6. The successful bidder at a sheriff's sale is an LLC. The only members of the LLC are the defendants, a husband and wife. They purchased their own house in the name of the LLC. The LLC was in existence prior to the commencement of the foreclosure and the sheriff's sale. Is this transfer exempt under state law (sec. 77.25(15s), Wis. Stats.), since the husband and wife are the only members of the Grantee (LLC)?

No. The conveyance is not exempt per state law (sec. 77.25(15s), Wis. Stats.), since Exemption 15s requires the conveyance be for no consideration. A purchase at a sheriff's sale does not meet this requirement. Sec. 77.25(14), Wis. Stats., does not apply since the LLC is considered a "third party" since it was not the mortgage holder. However; it would be exempt under the "two-step" method if the individuals are the successful bidders and take title using Exemption 14 and then convey into their LLC using Exemption 15s.

7. Does a transfer return need to be filed when an IRS Certificate of Sale of Seized Property (Form 2435) is recorded?

No. This document is used to place a lien on the property for 180 days as a redemption period for the person whose property was seized. If after the 180 days nothing was done to redeem the property, the IRS gives the buyer a District Quit Claim Deed and transfer return to record. This transaction is usually subject to transfer fee. The exemption for conveyance from a governmental agency under state law (sec. 77.25(2), Wis. Stats.), does not apply since the government did not have title and is only acting as a fiduciary in passing the title from the person the property was seized from to a third-party buyer. This is similar to a sheriff's sale where the transfer fee is due.

Short Sales

1. **How is the transfer fee calculated on a "short sale" when the amount owed on a mortgage exceeds the purchase price?**

The transfer fee is calculated on the amount paid (cash or equivalent) plus any liens, including any back taxes. (sec. 77.21(3)(a), Wis. Stats.)

Example: \$150,000 is remaining on the mortgage from an original sale of \$165,000 (\$15,000 down payment with no additional equity paid during the loan's life) and the new "short sale" is for \$135,000. The fee is on \$135,000 (sale price to the new owner). Any "short" the former owner owes to the bank is excluded when calculating the transfer fee.

Social Security Numbers

1. **The Wisconsin Department of Revenue requires that Social Security Numbers (SSN/FEIN) are reported on the transfer return. Is this a law?**

Yes. Congress enacted section 1211 of the Tax Reform Act of 1976, P.L. 94-455, Title 42 U.S.C. § 405(c)(2)(C), which authorizes the use of an SSN/FEIN by a state, "in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction."

2. **If there is more than one grantor or grantee, do I have to list a Social Security Number for each grantor and grantee?**

Yes. You must include a Social Security Number (SSN) and address for each grantor and grantee. The only exception is for a husband and wife with the same last name. If you include both first names in the same box, only one SSN is necessary.

3. **If an individual buys property and does not have a Social Security Number, what does he or she report on the return?**

You must provide a taxpayer identification number on a Wisconsin Electronic Real Estate Transfer Return. If you do not have a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN), or you are not legally required to have one, enter all 9s in the box.

To determine whether you are required to have a SSN or ITIN, review the [U.S. Tax Guide for Aliens, Publication 519](#).

4. If a grantor refuses to provide his or her Social Security Number, how can I record the deed without this information?

If the grantor refuses to give his/her Social Security Number, enter all 9s in the boxes.

5. How does the Wisconsin Department of Revenue (DOR) ensure the eRETR information, especially the Social Security Numbers (SSN) and FEIN, are secure from identity theft?

The eRETR is confidential under state law (sec. 77.265, Wis. Stats.). DOR restricts access to an eRETR and the information on it. When the eRETR is used, SSNs only appear in the saved file on the preparer's computer and on the printed summary section. If the printed summary is provided at the closing, the SSNs should be removed from these copies. After the eRETR is submitted to DOR, we transfer the SSNs to a different server only accessed by DOR employees. Local government officials and other state agencies do not have access to the servers with the SSNs.

Spouse to Spouse Conveyances

1. When does the "Between spouses" exemption under state law (sec. 77.25(8m), Wis. Stats.), apply?

Exempt from fee:

- Conveyances between spouses while married (ex: sale, land contract, gift)
- Conveyances due to divorce where one party is to receive the property

Note: A transfer return is required when the only document recorded is the divorce judgment. If the judgment splits various properties between each ex-spouse, it is considered two conveyances and requires two judgments and two receipts recorded.

Conveyances with fee:

- Conveyances where ex-spouses both hold joint title until the property is sold to a third party and then one of the ex-spouses chooses to take sole ownership either by gift or sale
 - Subject to transfer fee since the conveyance is not per the divorce decree
 - Transfer fee is due on one half of the property's fair market value
- Conveyances to or from an entity where a spouse does not have an interest in the entity are subject to transfer fee. A transfer fee is due on the property's full fair market value.

FOR MORE INFORMATION CONTACT:

MS 6-97

WISCONSIN DEPARTMENT OF REVENUE

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Email additional questions to DORERealEstateTransfer@wisconsin.gov

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions - T

Tax Foreclosure

1. What methods do counties/municipalities use to foreclose on delinquent taxes or assessments?
2. Is the foreclosure of delinquent taxes or assessments by a county or municipality exempt from a real estate transfer fee?
3. How do I complete a RETR for each method of tax foreclosure?
4. Is a real estate sale by a county/municipality for delinquent taxes or assessments exempt from a real estate transfer fee?

Termination of Decedent's Property Interest Form (HT-110)

1. Do I need to file a transfer return with the Termination of Decedent's Property Interest Form (HT-110)? If so, is it exempt from transfer fee?
2. How should I complete the grantor's contact information on a RETR for the Termination of Decedent's Property Interest Form (HT-110)?

Timber, Mineral, Air Rights

1. What are the requirements for filing a real estate transfer return and transfer fee on mineral and timber rights?

Timeshares

1. Are timeshares subject to the Real Estate Transfer Fee?
2. A timeshare week is being deeded to the owners' association to satisfy unpaid timeshare assessments. The market value is \$1,500 per week. Are transfer fees due on this conveyance?

Transfer by Affidavit

1. I have to record a Transfer by Affidavit (PR-1831) with the Real Estate Transfer Return (PE-500) under state law (sec. 77.22(1), Stats.), since the assets include real estate. What real estate value do I enter on the transfer return?
2. Is a transfer return required when a Transfer by Affidavit (PR-1831) is recorded and includes real estate?

Transfer Fee Miscellaneous

1. Why is another transfer fee due on an assignment of a vendee's interest in a land contract, when the fee was paid on the original land contract?

2. What value is subject to fee when a vendee sells their interest in an original land contract for \$100,000 and there is a \$100,000 balance owed on the land contract?
3. An unmarried couple owns a house as joint tenants and now one wants to convey their interest to the other owner. Is a transfer fee due, and if so, how is the fee calculated?
4. The current owner of the real property is a profit sharing plan that purchased the property for \$70,000. The profit sharing plan agrees to sell the property to the grantee for \$70,000. The grantee wants to build a house on the property. The grantee applied for financing for the property and the improvements in the amount of \$255,050. The bank disburses the funds once the grantee gets the property (land and home) in his/her name. The financing pays the profit sharing plan \$70,000 for the land. The remaining loan proceeds goes to a builder to pay for the improvements. Should the transfer tax be figured on \$70,000 or \$255,050?
5. Are expenses (ex: back taxes and the broker's commission), paid by the buyer on behalf of the seller, included in the value subject to transfer fee?
6. Is a buyer's broker commission included in the "Value Subject to Fee"?
7. My boyfriend cosigned the mortgage and his name was included on the title when I purchased my home. Now, he would like to remove his name from the title by conveying his interest to me. Is this exempt from fee under state law (sec. 77.25(3) or (10), Wis. Stats.)?
8. I am trying to complete an eRETR to report a deed that conveys half of a property to a tenant in common. A red stop sign appeared stating that the filer must enter an exemption. If no exemption applies, what should I enter to remove the stop sign?

Transfer on Death Deed (TOD Deed)

1. What are the filing requirements for the exemptions under the following state laws?
 - Sec. 77.25(10m), Wis. Stats., solely to designate a TOD beneficiary under state law (sec. 705.15, Wis. Stats.)
 - Sec. 77.25(11m), Wis. Stats., a non-probate transfer on death under state law (sec. 705.15, Wis. Stats.)
2. Do I have to file a transfer return with an exemption under state law (sec. 77.25(11m), Wis. Stats.), when a new TOD-110 Form pertaining to non-probate transfers of real property to a TOD beneficiary is filed, under state law (sec. 705.15, Wis. Stats.)?
3. If a TOD beneficiary is designated under state law (sec. 705.15, Wis. Stats.) and the transfer return is being completed upon the death of the Grantor, is the Grantor the decedent and should the decedent's Social Security Number be used?
4. A non-probate TOD Deed was recorded and now I would like to revoke it. A Quit Claim Deed was drafted that states specifically the Deed is made per state law (sec. 705.15(3), Wis. Stats.), and is removing the beneficiary. Does this need a Transfer Return? If so, what exemption should be used?

Trustee Deed

1. A trust beneficiary receives a Trustee's Deed marked "Exemption 11" with no transfer return. Does it qualify for the exemption under state law (sec. 77.25(11), Wis. Stats.), "By will, descent, or survivorship?"

Trusts

1. Why is a transfer return needed when creating a trust?

2. If you have a deed to or from a trust, when filing the eRETR, do you enter the trust name or the trustee's name as the Grantor/Grantee?
3. Can the exemption under state law (sec. 77.25(11), Wis. Stats.), be used when conveying property from a trust to the beneficiaries?
4. An individual creates a trust and conveys property to it. The creator of the trust sells the beneficial rights to the trust. (This type of trust is commonly used in Illinois.) When the rights are sold, nothing is recorded since this is similar to selling stock or an interest in a partnership and is considered the transfer of personal property. Now the trustee must convey the real property to the beneficiaries. Is the conveyance exempt from fee under state law (sec. 77.25(9), Wis. Stats.)?
5. Is a transfer return required when a Trustee's Deed is recorded showing a change of trustees? Example: A property occupied by a disabled person is held in a trust and the trustee (bank) is changed to an individual successor trustee (individual) for the same trust?
6. A daughter is quit claiming her interest in a property back to her mother who wishes to put the property into her trust. Can this be done with one deed/transfer return or does it require two deeds/transfer returns?
7. Property is in a revocable living trust. The trustee (father) now wants to convey the real estate to a limited liability company (LLC) whose only members are his children. Is there a fee due if the real estate is transferred directly to the LLC?
8. Is conveying real property into a revocable living trust exempt from transfer fees, even if there is debt on the property?
9. Is an assignment of vendee's interest in a land contract to a trust created for the benefit of the grantor's children, exempt from transfer fees?
10. After a grantor created a trust, he conveyed real property to it. He then sold the beneficiaries' rights to the trust. Is a transfer fee due?
11. A will directs that real property is conveyed to the grandchildren of the deceased. Since the children are minors, the estate transfers the property to a trust set up for the grandchildren. Is a fee due?

Tax Foreclosure

1. **What methods do counties/municipalities use to foreclose on delinquent taxes or assessments?**

For tax foreclosures, counties/municipalities should use one of these three methods:

- a. Tax deed (sec. 75.14, Wis. Stats.)
- b. Foreclosure of certificate (sec. 75.19, Wis. Stats.)
- c. Foreclosure of tax liens by action in rem (sec. 75.521, Wis. Stats.)

2. **Is the foreclosure of delinquent taxes or assessments by a county or municipality exempt from a real estate transfer fee?**

Yes. If a county/municipality has a foreclosure due to delinquent taxes or assessment, it is exempt from transfer fee under state law (sec. 77.25(14), Wis. Stats.).

Note: Exemption 2 (sec. 77.25(2), Wis. Stats.) does not apply since the county/municipality is not the grantor of the real estate.

3. **How do I complete a RETR for each method of tax foreclosure?**

For all three methods, the grantor(s) is the last property owner(s) of record. The county/municipality is not the grantor since the county/municipality does not have title. In RETR, to enter an explanation of "county/municipality tax foreclosure" for "Type of transfer" and "Conveyance document type," select "Other" and enter "county/municipality tax foreclosure" as an explanation. **Note:** The agent for the grantor is the county/municipality.

Methods 1 and 2 - completing an Electronic Real Estate Transfer Return (RETR) for methods (1) and (2) present no issues as they are all a single grantor(s) that owns property(s) conveying to the county.

Method 3 - presents an issue for completing a RETR since you are conveying multiple properties with multiple owners all on one judgment to one grantee (the county/municipality). For this method of foreclosure, the Wisconsin Department of Revenue (DOR) allows up to 30 grantors or 50 parcels to be reported on a single RETR (maximum allowed) with the respective conveyances of real estate. If there are more than 30 grantors/50 parcels, the judgment must be recorded more than once to split up the grantors/parcels so they fit on the RETR (i.e., If there are 55 grantors and 75 parcels, you must record the judgment twice so all the grantors/parcels can be split between two RETRs).

To complete all other fields on a RETR, review the [RETR Instructions](#) for more detailed information.

4. **Is a real estate sale by a county/municipality for delinquent taxes or assessments exempt from a real estate transfer fee?**

Yes. A sale of real estate by a county/municipality for delinquent taxes or assessment is exempt from transfer fee under state law (sec. 77.25(4), Wis. Stats.). **Note:** A separate RETR must be filed for each sale/conveyance.

Termination of Decedent's Property Interest Form (HT-110)

1. **Do I need to file a transfer return with the Termination of Decedent's Property Interest Form (HT-110)? If so, is it exempt from transfer fee?**

You must file a real estate transfer return at a Register of Deeds office when terminating a life estate or joint tenancy interest with a Termination of Decedent's Property Interest Form (HT-110). Filing this form meets the definition of a conveyance under state law (sec. 77.21, Wis. Stats.) since it is passing ownership interest in real estate by "descent or survivorship." It is exempt from transfer fee under state law (sec. 77.25(11), Wis. Stats.).

Note: Since October 5, 2017, there is a new Form HT-110, which combined the previous form with the Transfer on Death Interest Form (TOD-110).

Use the new Termination of Decedent's Interest Form (HT-110) if you are entitled to receive property of a decedent:

- o Under state law (secs. 867.045(1) and/or 867.046(2), Wis. Stats.)
- o As a designated Transfer on Death beneficiary upon the death of the sole owner or the last to die of multiple owners under sec. 705.15, Wis. Stats.

2. **How should I complete the grantor's contact information on a RETR for the Termination of Decedent's Property Interest Form (HT-110)?**

For the grantor's contact information, list the grantee's address, phone number and email address.

Timber, Minerals, Air Rights

1. **What are the requirements for filing a real estate transfer return and transfer fee on mineral and timber rights?**

Whenever there is a conveyance of mineral or timber rights, an electronic real estate transfer return is required since it is a conveyance of real estate, per state law (sec. 77.21(1m), Wis. Stats.). A transfer fee is required unless specifically exempt from fee under sec. 77.25, Wis. Stats. Any type of document, lease, assignment of lease, deed, memorandum or any other instrument that conveys a mineral or timber interest is subject to a return and fee.

Timeshares

1. **Are timeshares subject to the Real Estate Transfer Fee?**

Yes. The definition of a conveyance under state law (sec. 77.21(1), Wis. Stats.), specifically provides: "instruments that are evidence of a sale of time-share property, as defined in sec. 707.02(32)" are conveyances and require a transfer return and fee as a condition to recording the instrument, unless an exemption otherwise applies. **Note:** If the sale price is \$1,000 or less, Exemption 13 applies.

2. **A timeshare week is being deeded to the owners' association to satisfy unpaid timeshare assessments. The market value is \$1,500 per week. Are transfer fees due on this conveyance?**

Yes. A transfer fee is due on the timeshare's fair market value. The grantor must pay the transfer fee. **Note:** If the value is \$1,000 or less, Exemption 13 applies.

Transfer by Affidavit

1. **I have to record a Transfer by Affidavit (PR-1831) with the Real Estate Transfer Return (PE-500) under state law (sec. 77.22(1), Stats.), since the assets include real estate. What real estate value do I enter on the transfer return?**

Yes. You must use the fair market value for the real estate value on the transfer return, under state law (sec. 77.21(3), Stats.). The value **must** be the fair market value and not the equitable value without regard to liens, debts or other offsets.

2. **Is a transfer return required when a Transfer by Affidavit (PR-1831) is recorded and includes real estate?**

Transfers by affidavit are subject to the same statutory requirements as the Real Estate Transfer return and fee.

Example: If you are:

- Heir - Exemption 11 applies
- Guardian - you may or may not be exempt from a transfer fee depending on who you are the guardian of
- Trustee - Exemption 16 may apply

Transfer Fee Miscellaneous

1. **Why is another transfer fee due on an assignment of a vendee's interest in a land contract, when the fee was paid on the original land contract?**

Another transfer is due since these transactions are two separate conveyances. The vendee's interest in a land contract represents the equitable ownership of the property. An assignment of the vendee's interest is equivalent to another deed of the ownership. See administrative rule (tax 15.04(3), Wis. Adm. Code)

2. **What value is subject to fee when a vendee sells their interest in an original land contract for \$100,000 and there is a \$100,000 balance owed on the land contract?**

The value subject to fee is \$200,000, since this is the full actual amount paid (or to be paid), including the amount of any current or future liens, per state law (sec. 77.21(3), Wis. Stats.). The \$200,000 value is the sum of the \$100,000 cash paid plus the \$100,000 balance owed on the land contract that is assumed by the buyer.

3. **An unmarried couple owns a house as joint tenants and now one wants to convey their interest to the other owner. Is a transfer fee due, and if so, how is the fee calculated?**

Yes. A transfer fee is due on one-half the value of the property. The conveyance is not exempt as a partition under state law (sec. 77.25(5), Wis. Stats.), since there is a loss and a gain of ownership interest.

4. **The current owner of the real property is a profit sharing plan that purchased the property for \$70,000. The profit sharing plan agrees to sell the property to the grantee for \$70,000. The grantee wants to build a house on the property. The grantee applied for financing for the property and the improvements in the amount of \$255,050. The bank disburses the funds once the grantee gets the property (land and home) in his/her name. The financing pays the profit sharing plan \$70,000 for the land. The remaining loan proceeds goes to a builder to pay for the improvements. Should the transfer tax be figured on \$70,000 or \$255,050?**

The value subject to fee is the value of real property at the time of conveyance. If the house is not built yet, then the value of the real property is \$70,000 and that figure should be used to calculate the fee. If the house is already built at the time of conveyance, the value is \$255,050

and the fee is calculated on \$255,050. For more information, review R & R Development Group, LLC v. Wisconsin Department of Revenue, Wisconsin Tax Appeals Commission, Docket No. 97-T-212, Decision and Order dated February 11, 1999.

5. Are expenses (ex: back taxes and the broker's commission), paid by the buyer on behalf of the seller, included in the value subject to transfer fee?

Yes. When a buyer pays any expenses of the seller, including the real estate broker's commission, those payments are part of the total amount paid, which is subject to the transfer fee. State law (sec. 77.21(3)(a) Wis. Stats.), defines value as the amount of the full actual consideration paid (or to be paid) including any liens thereon.

Example: Seller lists property for sale for \$100,000 with broker's commission of 7 percent upon sale. Buyer offers \$93,000 and agrees to pay a \$7,000 commission directly to the broker. The transfer fee is on the full \$100,000 since the buyer is paying the seller's broker expense in addition to the \$93,000 for the property.

6. Is a buyer's broker commission included in the "Value Subject to Fee"?

No. When a buyer signs a buyer's broker agreement, where the broker locates a property on behalf of the buyer, the commission is not included in the value subject to fee. This commission does not become part of the purchase price since it is not consideration paid to or on behalf of the seller.

7. My boyfriend cosigned the mortgage and his name was included on the title when I purchased my home. Now, he would like to remove his name from the title by conveying his interest to me. Is this exempt from fee under state law (sec. 77.25(3) or (10), Wis. Stats.)?

No. A transfer fee is due on the conveyance of one-half the property value, whether or not your boyfriend paid anything. Since both of you held title to the property, he is conveying his one-half interest in real property and Exemption 3 does not apply. Exemption 3 provides for a non-conveyance of an interest in real property; the instrument recorded just corrects the deed that conveyed the real estate. The use of Exemption 10 is solely to provide or release security for a debt. This exemption also does not convey an interest in real property; it just places or releases a lien on the property. In addition, the exemption under state law (sec. 77.25(5), Wis. Stats.), for partition does not apply. Partition is a division among co-owners and not a conveyance that removes one person as owner, per sec. 77.21(1k), Wis. Stats.

8. I am trying to complete an eRETR to report a deed that conveys half of a property to a tenant in common. A red stop sign appeared stating that the filer must enter an exemption. If no exemption applies, what should I enter to remove the stop sign?

You most likely are reporting the entire value of the real estate instead of one-half the value. The first box on the Fee Computation page asks for the "Total value of real estate transferred" not the total value of the real estate. If only 50 percent is transferred, enter 50 percent of the fair market value. Also enter the same value in the "Value subject to transfer fee" box.

Transfer on Death Deed (TOD Deed)

1. What are the filing requirements for the exemptions under the following state laws?

- **Sec. 77.25(10m), Wis. Stats.** - solely to designate a Transfer on Death (TOD) beneficiary under state law (sec. 705.15, Wis. Stats.). A TOD beneficiary is designated on a deed that must be recorded and is exempt from filing a transfer return. State the exemption from return and fee on the face of the document: "Exempt from transfer return and fee per state law (sec. 77.25(10m), Wis. Stats.)."
- **Sec. 77.25(11m), Wis. Stats.** - non-probate transfer on death under state law (sec. 705.15, Wis. Stats.), is conveyed at the time of death of the sole owner or the last to die of multiple owners. When recording a document evidencing the termination of the decedent's interest in the property, **a transfer return is required.**

2. Do I have to file a transfer return with an exemption under state law (sec. 77.25(11m), Wis. Stats.), when a new TOD-110 Form pertaining to non-probate transfers of real property to a TOD beneficiary is filed, under state law (sec. 705.15, Wis. Stats.)

Yes. You are required to file a transfer return. However, no fee is due if the document being recorded indicates the property is being transferred to a beneficiary who was designated on a previous recording.

You must enter the document number on the electronic transfer return's Fee Computation page in the "next box" after selecting Exemption 11m.

Note: Since October 5, 2017, there is a new Form HT-110, which combined the previous form with the Transfer on Death Interest Form (TOD-110).

Use the new Termination of Decedent's Interest Form (HT-110) if you are entitled to receive property of a decedent:

- Under state law (secs. 867.045(1) and/or 867.046(2), Wis. Stats.)
- As a designated Transfer on Death beneficiary upon the death of the sole owner or the last to die of multiple owners under sec. 705.15, Wis. Stats.

3. If a TOD beneficiary is designated under state law (sec. 705.15, Wis. Stats.) and the transfer return is being completed upon the death of the Grantor, is the Grantor the decedent and should the decedent's Social Security Number be used?

Yes. The Grantor is the decedent and the decedent's Social Security Number should be entered. For the grantor's contact information, list the grantee's address, phone number and email address.

4. A non-probate TOD Deed was recorded and now I would like to revoke it. A Quit Claim Deed was drafted that states specifically the Deed is made per state law (sec. 705.15(3), Wis. Stats.), and is removing the beneficiary. Does this need a Transfer Return? If so, what exemption should be used?

If removing a TOD beneficiary under state law (sec. 705.15(3), Wis. Stats.), a transfer return is recommended, but optional. You must add the following language to the document to exempt from transfer return and fee: "This document is removing a TOD beneficiary

designation only and is exempt per state law (sec. 77.25(10m), Wis. Stats.)"

Trustee Deed

1. **A trust beneficiary receives a Trustee's Deed marked "Exemption 11" with no transfer return. Does it qualify for the exemption under state law (sec. 77.25(11), Wis. Stats.), "By will, descent, or survivorship?"**

No. The exemption per state law (sec. 77.25(11), Wis. Stats.), only applies to conveyances from an estate (deceased individual) made by will, decent or survivorship. The Trustee's Deed is exempt under sec. 77.25(9), Wis. Stats., "from a trustee to a beneficiary," as long as no consideration is exchanged; a return is required.

Trusts

1. **Why is a transfer return needed when creating a trust?**

A trust is an entity created by a settlor (grantor) who entrusts some or all of his/her property to be managed by a person(s) of the grantor's choice (trustee/grantee), for the benefit of another (beneficiary). Because a person actually transfers ownership of his/her assets to the trust, it is a conveyance per state law (sec. 77.21, Wis. Stats.), and a transfer return is required. A transfer fee may or may not be required depending on the circumstances.

2. **If you have a deed to or from a trust, when filing the eRETR do you enter the trust name or the trustee's name as the Grantor/Grantee?**

- o In the Grantor/Grantee section, select "Trust" as the Grantor/Grantee type and enter the trust name as the Grantor/Grantee
- o Enter the trustee's name in the Agent section as agent
- o State law (sec. 701.05(1), Wis. Stats.), requires that the title to trust property is held in the trustee's name. The Register of Deeds accepts the receipt as complying with the name-matching rule.

Note: When entering the trust's Tax Identification Number (TIN), it is important to know whether the trust is a revocable trust. For a revocable trust only, a TIN is not used. Instead, the Social Security Number of the trust's original grantor is required.

3. **Can the exemption under state law (sec. 77.25(11), Wis. Stats.), be used when conveying property from a trust to the beneficiaries?**

No. The exemption per state law (sec. 77.25(11), Wis. Stats.), only applies to conveyances from an estate (deceased individual) by will, descent or survivorship. Since the property is in a trust, the exemption under sec. 77.25(9), Wis. Stats., can be used "from a trustee to beneficiary without actual consideration," as long as no consideration was exchanged.

4. **An individual creates a trust and conveys property to it. The creator of the trust sells the beneficial rights to the trust. (This type of trust is commonly used in Illinois.) When the rights are sold, nothing is recorded since this is similar to selling stock or an interest in a partnership and is considered the transfer of personal property. Now the trustee must convey the real property to the beneficiaries. Is the conveyance exempt from fee under state law (sec. 77.25(9), Wis. Stats.)?**

No. To be exempt, the conveyance must be "from a trustee to beneficiary without actual consideration." Since the beneficiaries purchased their interest, there was consideration exchanged and, therefore, the conveyance does not meet the requirement of the exemption under state law (sec. 77.25(9), Wis. Stats.).

5. Is a transfer return required when a Trustee's Deed is recorded showing a change of trustees? Example: A property occupied by a disabled person is held in a trust and the trustee (bank) is changed to an individual successor trustee (individual) for the same trust?

Yes. A transfer return is required in this case. A deed filed to reflect that a new trustee is now the title holder of the real estate on behalf of a trust is a conveyance. A transfer return is required and state law (sec. 77.25(9), Wis. Stats.) Exemption 9 applies to the conveyance.

6. A daughter is quit claiming her interest in a property back to her mother who wishes to put the property into her trust. Can this be done with one deed/transfer return or does it require two deeds/transfer returns?

The daughter can deed the property directly to the mother's trust with one deed/transfer return and claim the exemption under state law (sec. 77.25(16), Wis. Stats.), provided the conveyance is: 1) for no consideration, and 2) the mother is the beneficiary of the trust. Sec. 77.25(16), Wis. Stats., applies since the conveyance to the mother (for no consideration) is exempt under sec. 77.25(8), Wis. Stats.

7. Property is in a revocable living trust. The trustee (father) now wants to convey the real estate to a limited liability company (LLC) whose only members are his children. Is there a fee due if the real estate is transferred directly to the LLC?

Yes. A fee is due since no exemption applies. Since the trustee/father is not transferring the property directly to his children for no consideration, under state law (sec. 77.25(8), Wis. Stats.); the trustee/father is not a member of the LLC, under sec. 77.25(15s), Wis. Stats.; and the LLC is not a beneficiary of the trust; sec. 77.25(9), Wis. Stats., does not apply.

8. Is conveying real property into a revocable living trust exempt from transfer fees, even if there is debt on the property?

Yes. The exemption under state law (sec. 77.25(16), Wis. Stats.), still applies provided that the transfer from the grantor to the beneficiary is exempt under another exemption of sec. 77.25 Wis. Stats.

9. Is an assignment of vendee's interest in a land contract to a trust created for the benefit of the grantor's children, exempt from transfer fees?

No. Under state law (sec. 77.25(16), Wis. Stats.), the exemption applies if another exemption under sec. 77.25 applies to the direct conveyance from the settlor(s) of the trust to the beneficiary(s) of the trust. The direct conveyance from the parents to the children is not exempt from transfer fee under state law (sec. 77.25(8), Wis. Stats.), because the assignment of a vendee's interest in a land contract is a conveyance for consideration. Exemption 8 does not apply because the conveyance must be for no consideration, therefore the conveyance into the trust does not qualify for the use of Exemption 16.

10. After a grantor created a trust, he conveyed real property to it. He then sold the beneficiaries' rights to the trust. Is a transfer fee due?

- Personal property - the sale of the beneficiaries' rights is considered the sale of personal property (similar to common stock sales) and is not recorded
- Real property - the transfer of the real property from the trust to the new "beneficiary" is subject to the transfer fee. The exemption under state law (sec. 77.25(9), Wis. Stats.), does not apply because the new beneficiary purchased his/her interest in the trust and this constitutes consideration.

11. A will directs that real property is conveyed to the grandchildren of the deceased. Since the children are minors, the estate transfers the property to a trust set up for the grandchildren. Is a fee due?

No. The exemption under state law (sec. 77.25(11), Wis. Stats.), applies, "By will, descent or survivorship."

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State of Wisconsin
Department of Revenue

Real Estate Transfer Fee Common Questions V-W

Value of Property (Subject to Transfer Fee)

1. If I gift property to my children and grandchildren while retaining a life estate, is there a formula I should use to calculate the value of the remainder being conveyed?
2. Is there another table we can use to calculate the value of the remainder interest being conveyed?
3. The Real Estate Transfer Return instructions indicate that the "real estate value transferred" can be zero (0) for Exemptions 3, 10, 13 and 17. Why is there no value and why can I enter a zero?
4. What is the value subject to fee on a conveyance of a vacant lot with a contract to construct a building?

Will, Descent or Survivorship

1. If four siblings receive real estate and other assets in equal shares per a will, does state law (sec. 77.25(11), Wis. Stats.), "By will, descent or survivorship" apply where an agreement between the heirs states one heir will receive the real estate and the remaining heirs will receive other assets?
2. A trust beneficiary receives a Trustee's Deed marked Exemption 11 with no transfer return. Does it qualify for Exemption 11, by will descent or survivorship?
3. Is a sale per a will exempt from transfer fee under state law (sec. 77.25(11), Wis. Stats.)?

Value of Property (Subject to Transfer Fee)

1. **If I gift property to my children and grandchildren while retaining a life estate, is there a formula I should use to calculate the value of the remainder being conveyed?**

Yes. For the return, use the fair market value of the property actually being transferred. To calculate, take the property's fair market value and multiply it by a factor from the table in the Wisconsin Department of Health and Family Services [Medicaid Eligibility Handbook](#).

The value gifted to the children is exempt from the transfer fee per state law (sec. 77.25(8), Wis. Stats.), while the value gifted to the grandchildren is subject to the transfer fee. On the eRETR "Fee computation" page, enter the total value in "Total value of real estate transferred" as calculated using the tables referred to above; and in the "Value subject to fee," enter the calculated value to the grandchildren. Select "8" in the exemption selection dropdown.

2. Is there another table we can use to calculate the value of the remainder interest being conveyed?

Yes. You may use the table in the Wisconsin Department of Health and Family Services Medicaid Eligibility Handbook, located at: emhandbooks.wi.gov/meh-ebd. The value required on the return is the fair market value of the remainder being transferred. To calculate, multiply the entire property's fair market value by the factor in the table from the handbook's appendix.

3. The Real Estate Transfer Return instructions indicate that the "real estate value transferred" can be zero (0) for Exemptions 3, 10, 13 and 17. Why is there no value and why can I enter a zero?

Zero (0) may be entered as the real estate value transferred for the following exemptions:

- o **Sec. 77.25(3), Wis. Stats.** - "Which, executed for nominal, inadequate or no consideration, confirms, corrects or reforms a conveyance previously recorded." Under Exemption 3, the real property previously conveyed on the deed is now being corrected. Since the correction deed does not convey any fee simple interest, the value is zero (0).
- o **Sec. 77.25(10), Wis. Stats.** - "Solely in order to provide or release security for a debt or obligation." This type of document does not convey any real estate; it simply places or removes a lien or cloud on the title.
- o **Sec. 77.25(13), Wis. Stats.** - "Of real estate having a value of \$1,000 or less." If the property has no value, you may enter zero (0). You cannot use special use valuations for purposes of this exemption.
- o **Sec. 77.25(17), Wis. Stats.** - "Of a deed executed in fulfillment of a land contract if the proper fee was paid when the land contract or an instrument evidencing the land contract was recorded." In Wisconsin, ownership of real estate is transferred when you enter a land contract. If you paid the transfer tax at that time, the deed in fulfillment of the land contract is essentially a satisfaction of the financing, and is not a conveyance.

4. What is the value subject to fee on a conveyance of a vacant lot with a contract to construct a building?

The value subject to transfer fee is only the value of the real property **at the time of conveyance**. The improvement value is included with the lot value only on the percentage of improvements completed at the time of conveyance.

Examples:

- a. If there is only a vacant lot with a construction contract - include lot value only
- b. Improvements are 50 percent completed - include lot value plus 50 percent of the value of the improvements
- c. Improvements are 100 percent completed - include lot value plus total value of the improvements

For more information, review *R and R Development Group, LLC v. Wisconsin Department of Revenue, Wisconsin Tax Appeals Commission, Docket No. 97-T-212, Decision and Order* dated February 11, 1999.

Will, Descent or Survivorship

- 1. If four siblings receive real estate and other assets in equal shares per a will, does state law (sec. 77.25(11), Wis. Stats.), "By will, descent or survivorship", apply where an agreement between the heirs states one heir will receive the real estate and the remaining heirs will receive other assets?**

Yes. In this case, the conveyance is by will, descent or survivorship and Exemption 11 applies. However, if the heir receiving the real estate has to pay the estate or siblings any consideration, that amount is subject to transfer fee. This may happen when the real estate value is greater than the other assets and the payment to the estate ("boot") creates equal shares. In this case, when completing the "Fee computation" page in the return, the total real estate value conveyed is the property's fair market value. The total value subject to fee is the amount paid to the estate; select Exemption 11 for the balance of the total real estate value.

- 2. A trust beneficiary receives a Trustee's Deed marked Exemption 11 with no transfer return. Does it qualify for Exemption 11, by will descent or survivorship?**

No. The exemption per state law (sec. 77.25(11), Wis. Stats.), only applies to conveyances from an estate (deceased individual) made by will, decent or survivorship. The Trustee's Deed is exempt instead under sec. 77.25(9), Wis. Stats., "from a trustee to a beneficiary," as long as no consideration was exchanged.

- 3. Is a sale per a will exempt from a transfer fee under state law (sec. 77.25(11), Wis. Stats.)?**

No. The sale price is the value subject to transfer fee.

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