

State of Wisconsin, Department of Revenue

DIVISION OF STATE AND LOCAL FINANCE, BUREAU OF PROPERTY TAX, 2135 Rimrock Road, P.O. Box 8971, MS6-97, Madison, WI 53708-8971

REAL ESTATE TRANSFER NEWS (RETN)

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The following questions and answers are given as general guidelines for the electronic Real Estate Transfer Return (eRETR). Additional information regarding the submission of an eRETR and a Merger/Conversion is available at: <http://www.revenue.wi.gov/ust/retn.html>. Newsletters are at: <http://www.revenue.wi.gov/ust/news/index.html>. Information on completing, saving, and restoring eRETR, is at: <http://www.revenue.wi.gov/eretr/training/index.html>.

Q1. What information is available for the Domestic Partner Fee Exemption - Sec. 77.25(8n), Wis. Stats.?

- A. The budget bill, 2009 Wisconsin Act 28, created an exemption from transfer fee under sec. 77.25(8n), Wis. Stats., for conveyances "Between an individual and his or her domestic partner under ch. 770."
- The domestic partner exemption, under sec. 77.25(8n), Wis. Stats., is effective as of July 1, 2009.
 - Use of the exemption will not occur until August 1, 2009, as the budget bill specified August 1, 2009, as the effective date for chapter 770.
 - In order to obtain the domestic partner exemption, legal status as domestic partners is required under chapter 770.
 - eRETR's Fee Computation page has been updated to include the domestic partner exemption under sec. 77.25(8n), Wis. Stats.
 - Pages 387, 604, 635, and 683 of the budget bill provide information on the changes and effective dates - <http://www.legis.state.wi.us/2009/data/acts/09Act28.pdf>.
 - Please contact the Department of Health Services for any questions regarding the domestic partner declaration - <http://dhs.wisconsin.gov/vitalrecords/>.

Q2. Why is a document number required of the deed that designated the beneficiary for the Transfer on Death (TOD) fee exemption under sec. 77.25(11M), Wis. Stats.?

- A. Conveyances that designate a TOD beneficiary under sec. 705.15, Wis. Stats., are exempt from Transfer Fee under sec. 77.25(11m), Wis. Stats. A TOD beneficiary designation is not effective unless the deed is recorded with the designation. The eRETR system was updated to require the document number for the previously recorded document where the grantee was named the TOD beneficiary to assist the Register of Deeds in locating that document. It also prevents an improper claim of the exemption, which would result in additional transfer fee, interest and penalty. In this regard, exemption 3 and 17 also require the document number of the previously recorded deed.

Q3. A Brother and sister own property together as joint tenants. The sister is conveying her half to the brother and requests use of the exemption under sec. 77.25(13), Wis. Stats., for real estate value less than \$100.00 and no consideration. If the exemption does not apply and a fee is due, what value is subject to fee?

- A. A conveyance between siblings is subject to fee under Section Tax 15.03(3), Wis. Adm. Code. "Conveyances of real property between stepchildren, natural children or stepparent and stepchild." Since there is no consideration involved, the value subject to fee will be one half the fair market value of the real estate under sec. 77.21(3)(b), Wis. Stats. "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." Note that the exemption under sec. 77.25(8), Wis. Stats., includes between parent and child and between stepparent and stepchild, which overrides the Wisconsin Administrative Code.

Q4. I am recording a deed in partial satisfaction of a land contract that releases one parcel of the two parcels conveyed on the land contract. Is this exempt from return and fee?

- A. A transfer return is required and exemption under sec. 77.25(17), Wis. Stats., would apply: "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".

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 under Section Tax 15.04(5), Wis. Adm. Code.

Example: A 40-acre parcel was sold under an original land contract for \$80,000. A deed was issued in partial satisfaction of this land contract covering 5 acres. The fee is based upon 5/40 of \$80,000 or \$10,000. Enter zero (0) in the box "Value subject to fee." Select exemption 17 and enter the document number of the recorded land contract. If the land contract was recorded prior to August 1, 1992 and the fee was deferred, then a transfer fee would be due and enter the same value as shown in the box "Total value of real estate transferred".

The following lists the transfer fee rates for land contracts based upon date.

- Prior to December 17, 1971: No fee is due, enter zero (0) in "Value subject to fee" and select the exemption under sec. 77.25(1), Wis. Stats.
- 12/17/71 to 08/31/81: \$1.00 per \$1,000, see question 3 from the June 2009 Newsletter.
- 09/01/81 to Present: \$3.00 per \$1,000.

Q5. How is the eRETR completed when there is a partition among siblings who co-own the real estate? Both brothers jointly own two properties: Sibling A is to receive property 1 with a fair market value of \$60,000 and Sibling B is to receive property 2 a fair market value of \$90,000.

- A. Create a schedule that allocates the values to determine if the partition exemption applies or if subject to fee:
- Total property values and value of each Sibling:
Total Value: \$150,000; Sibling A \$75,000; Sibling B \$75,000
 - Property 1 to Sibling A: \$60,000 - (loss of \$15,000) (75,000-60,000)
 - Property 2 to Sibling B: \$90,000 - (gain of \$15,000) (90,000-75,000)

In a "true" partition, there is no gain or loss of an ownership interest, i.e., value. The above illustrates how Sibling A has "conveyed" an interest in value of \$15,000 and would owe a fee on that amount. Sibling B has gained an interest over all, and, therefore, has not "conveyed" a value in the real property and is exempt from fee under sec. 77.25(5), Wis. Stats.

Completing the eRETR for the deed Property 1 to Sibling A:

- Grantor: Sibling B; Grantee: Sibling A
- Transfer type: check box "Other" and explain "partition"
- Total value of real estate transferred: \$30,000, Value subject to fee: \$0; Select exemption 5.

Completing the eRETR for the deed Property 2 to Sibling B:

- Grantor: Sibling A; Grantee: Sibling B
- Transfer type: check box "Other" and explain "partition"
- Total value of real estate transferred: \$45,000, Value subject to fee: \$15,000; No exemption.

Note that the property value is determined by the fair market value of each of the properties under sec. 77.21(3), Wis. Stats. DO NOT equalize the value by adjusting the fair market value with any liens on the property.

Q6. My father is giving my husband and I a home valued at \$121,000. We will be assuming the mortgage to pay the remaining \$77,000. Are we exempt from fee and how do we complete the eRETR?

- A. The exemption under sec. 77.25(8), Wis. Stats., requires the conveyance to be between parent and child and for no consideration. Since financing is involved and assumption of the remaining mortgage, the requirement of "no consideration" is not met. Accordingly, the transfer fee is imposed on the \$77,000.00, and exemption 8 would apply to the equity of \$44,000.00 as a gift. Complete the eRETR as follows:
- Transfer type: Check "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.