

**Bureau of Utility and Special Taxes**

**GUIDELINES FOR REAL ESTATE**

**TRANSFER FEE AND RETURN**

*Chapter 77, Wis. Stats.*

Wisconsin Department of Revenue  
Division of State and Local Finance  
125 South Webster St.  
Madison, WI 53708-8933



Publication 802 (R. 10/98)

## PREFACE

"Guidelines" has been written as a response to the needs of the Registers of Deeds, attorneys, and conveyers of property as expressed by them through meetings, letters, and phone conversations. It is a document which directs the reader to the law, Administrative Rules, court decisions, and written opinions of the Wisconsin Department of Revenue regarding specific questions. The purpose of the "Guidelines" is to inform the conveyor of property as to the position taken by Wisconsin Department of Revenue regarding actual conveyances. The reader should refer to the law, rule, or newsletter as referenced herein for comments on specific questions. If, after your research, you still have a question, please call Russel Reppen, Auditor, (608) 266-1594; Jeremy Wedige, Auditor, (608) 264-6885, or Eric Jepperson, Appellate Officer, (608) 264-6889, and we will answer your questions. However, with complex conveyances, we would prefer you write. Our address is Bureau of Utility & Special Taxes, P.O. Box 8933, Madison, WI 53708-8933.

We would like to thank each Register of Deeds for their cooperation in helping with the administration of this most complicated law. The communication between you and the WDOR is superb. Most of the questions answered in the referenced newsletters were asked by Registers in response to their customer needs. A special thanks to John Evans, Chief Legal Counsel for the Department, and Neal Schmidt, Department of Revenue Attorney, who have researched the questions answered by our newsletters and who wrote Section 5 on court decisions. Finally, we would like to acknowledge Barb Fassbender and Val Richmond for their excellent work in the development of the "Guidelines" layout and for the automation of the Table of Contents and indexing system.

These "Guidelines" may be found on DOR's website on the internet at <http://www.dor.state.wi.us>. Click on "Forms and Publications", then on "Local Government Forms and Publications", then on "Guidelines".

Bureau of Utility & Special Taxes  
Division of State & Local Taxes  
Wisconsin Department of Revenue

## INTRODUCTION

Wisconsin's real estate transfer fee law was enacted by Chapter 154, Laws of 1969 with revisions enacted by Chapter 150, Laws of 1971; Wis. Act 27, Laws of 1983; 1985 Wis. Act 39; 1991 Wis. Acts 39, 202, and 269; 1993 Acts 112, 236, 307, and 412; 1995 Acts 97, 400, and 458; and 1997 Act 140 (see Section 6 for a complete listing of transfer fee acts.) The original law was enacted due to the federal government's repeal of the Documentary Stamp Act in 1967, effective 1968. The federal government urged adoption of the transfer fee in order to improve local assessment practices.

Article VIII of the State Constitution requires that the taxation of property be uniform. To insure uniformity in the taxation of property throughout the State, the Wisconsin Legislature has established that **real estate** shall be valued "at the full value which could ordinarily be obtained therefore at private sale;" in other words, at market value. The Real Estate Transfer Fee Return created by Subchapter II of Chapter 77 was devised in order to provide local assessors and the Department of Revenue with a means of obtaining market value data to comply with the State Constitution and Statutes.

The primary reason for the existence of the Real Estate Transfer Return is to provide a basis for the assessor's judgement in the discovery of market value (transactions between willing buyers and willing sellers). The questions asked on the return are necessary in determining whether or not the transfer of property is an ordinary market transaction and should or should not be used for comparative purposes. The assessor needs an extensive amount of information to determine whether the transaction is at arm's length and should be used to value like properties.

These guidelines are intended to be a ready source of interpretations for the Register of Deeds and conveyors of property. It should assist them in the expeditious closing of real estate transactions, business restructuring, and recordings thereof. The Bureau welcomes your comments. SEND THEM TO:

**Real Estate Transfer Fee  
Bureau of Utility & Special Taxes  
Division of State and Local Finance  
Wisconsin Department of Revenue  
P.O. Box 8933  
Madison, WI 53708-8933**

### Legend or Key

September 1998 revised "*Guidelines*" includes references through June 1998 Newsletter and statute changes through 1997 Wisconsin Act 140.

Real Estate Transfer Newsletters are referred to as RETN.

Generally, words and phrases that are underlined have been included in this publication for the first time.

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## SECTION 1. GENERAL ADMINISTRATIVE GUIDELINES

### REFERENCES

#### Additional Assessments and Penalties

- (1) If an additional assessment is made by the Department because the value was understated by more than 25% or that an exemption was improperly claimed, a **penalty** will be charged of \$25 or 25% of the additional fee due, whichever is greater. RETN, Q2 (May 1985)  
Section 77.26(2), Stats.  
The imposition of the penalty was upheld in the April 15, 1996 decision of Heritage Place Limited Partnership v. Wisconsin Department of Revenue, Waukesha County Circuit Court, Case No. 95-CV-2292. See a discussion of this opinion in **SECTION 5** of this publication. RETN, Q6 (October 1997)
- (2) If an erroneous exemption was claimed, the penalty may be waived provided the person sends a **copy** of the recorded **deed**, amended transfer return, and a check for additional fee to the Wisconsin Department of Revenue. Interest may be assessed. RETN, Q8 (January 1992)

#### Completed Returns

- (3) With respect to deeds, both grantor and grantee are required to sign the return. Section 77.22(1), Stats.  
If the grantee is a Trust the name of the trust should be entered on Line 14 of the Transfer Return (PE500, r-11/97) even if the trustee takes title. The trustee would sign as agent for the trust on line 71 and complete the rest of the information. For a trust not requiring a tax ID # the social security # of the **trustor** should be used. RETN, Q2, (June 1998)
- (4) With the exception of the conveyances exempt from under sec. 77.25(1), (2r), (4), and (11), Stats., conveyances exempt from the fee must be accompanied by a return. Effective April 29, 1994, **all returns must state the value in dollars** of the real property conveyed except transfer returns claiming Exemptions 3 or 10. The conveyance in those instances occurred previously so there is no value subject to the fee. RETNs, (Q3) (August 1981), Q1 & Q2 (May 1994), Q1 (March 1995), & secs. 77.21(1) and 77.255, Stats, Wis. Act 307 (1993 Session)
- Note: Prior to April 29, 1994, no value needed to be disclosed where the transfer was exempt per sec. 77.25, Stats., except in the cases of an original land contract and conveyances between husband and wife or parent and child for nominal or no consideration.
- Note: Prior to September 1, 1987, returns were not required for conveyances exempt under sec. 77.25(2), Stats. Currently, a return is required where the transferor (government or agency thereof) is also a lender for the transaction.
- (5) If Exemption 8 is claimed, the value of the real estate conveyed must be disclosed on the transfer return. The return should not be accepted or the deed recorded by the Register of Deeds if the value is not shown. RETN, Q14 (May 1985)
- (6) A completed transfer return must accompany a recording of a "**Memorandum of Interest**" or an "**Affidavit of Interest**" in real property if it reflects a conveyance of real property. RETN, Q6 (January 1987), sec. 77.22(1), Stats.

## SECTION 1. GENERAL ADMINISTRATIVE GUIDELINES

		REFERENCES
(7)	a) The State of Wisconsin is permitted to require that <b>social security numbers</b> of the <b>grantor</b> and <b>grantee</b> be placed on the transfer fee return under authority of Section 1211 of the Tax Reform Act of 1976, P.L. 94-455, Title 42 § 405(c)(2)(C), enacted by the Congress of the United States.	RETN, Q21 (January 1987)
	b) <u>An exception is made for a person not a U.S. citizen, but an alien when he or she purchases property. If this person is not required to have a SS# or an individual tax identification number (ITIN) and is legally not required to have one simply state “nonresident alien” in the social security box on the return. To determine if the individual needs an I D # consult the U.S. Tax Guide for Aliens, Publication 519.</u>	RETN, Q7 (October 1997)
(8)	<b>Government agencies</b> must provide tax ID numbers of sellers of real property.	RETN, Q7 (January 1989)
(9)	It is acceptable to report ten lots with five different addresses on one transfer return if the return reflects one sales transaction and the property is located in one county.	RETN, Q9 (August 1989)
(10)	<b>Faxes</b> and <b>photocopies</b> are not acceptable when filing a transfer return.	RETN, Q4 (May 1994) and Q3, (March 1995)
(11)	When a fee is based upon both the sale of land and the cost of a constructed improvement, two returns should be filed. If one return is filed, both the land seller and the contractor need to sign as <b>grantors</b> .	RETN, Q6 (March 1995)
(12)	The <b>return</b> is <b>incomplete</b> without the <b>grantor’s</b> address.	RETN, Q5, (June 1996)
(13)	A legal description is required for a <b>return</b> to be <b>complete</b> . Lines 38-48 are complete if the appropriate box is checked and the applicable questions are answered. If line 48 is not filled out, the transfer return is incomplete. (PE500 r11-97)	RETN, Q7 (June 1996)
(14)	Questions regarding the “ <b>energy code</b> ” should be directed to the Department of Commerce at (608) 267-2240.	RETN, Q6 (June 1996)
<b>Consideration</b>		
(15)	If the agreed selling price for a home is \$78,000, including \$4,000 to be <b>escrowed for repairs</b> , the full actual <b>consideration</b> of \$78,000 must be reported as <b>value</b> for the fee.	RETN, Q16 (January 1987)
(16)	<b>Delinquent property taxes</b> paid by a buyer to obtain clear title is <b>consideration</b> and must be included in the basis subject to the fee.	RETN, Q2 (June 1988)
(17)	A buyer who must pay <b>delinquent property taxes</b> to receive an <b>unencumbered deed</b> must include such <b>consideration</b> as value for transfer fee conveyance purposes.	RETN, Q8 (January 1989)



## SECTION 1. GENERAL ADMINISTRATIVE GUIDELINES

### REFERENCES

#### General

- (18) As stated in Tax 15.05(4), Wis. Adm. Code, "pursuant to **divorce decree**" means that a transfer of real property between former spouses is exempt if directed by a divorce decree. If there is a conveyance to a third party by a divorce decree, it is subject to the payment of real estate transfer fee. RETN, Q8 (February 1984), Q1 (June 1988), Q11 (June 1993)
- (19) Information in Transfer Fee Return may not be released without breaching the **confidentiality** requirement. See Newsletter Q12, June 1988, for precautions: RETN, Q11, Q12 (June 1988) & Q9 (June 1996)
- (a) A utility company cannot inspect returns when acquiring real property (in lieu of **condemnation**) for right-of-way. RETN, Q7 (January 1992), sec. 77.25(2), Stats.
- (b) A governmental agency such as the Wisconsin Department of Transportation may inspect returns when acquiring property for public purposes.
- (20) A procedure not requiring recordation used to convey property is the purchase of **stock** in a **cooperative building**. If a person does not file a **deed** or other document with the Register of Deeds, but wants to file a transfer return, that person may voluntarily file a transfer return and pay the fee to the State. Send to the address at (25) below. RETN, Q1 (June 1993)
- (21) If an **employer relocates** an employee and buys the employee's home, a transfer fee is due at the time of purchase and again at the time the home is resold. RETNs, Q19 (January 1987), Q1 (January 1992)

#### Land Contract

- (22) With respect to **land contracts**, both vendee and vendor are required to **sign the return** and to state the **value** of ownership interest transferred. RETN, (2) (August 1981)
- (23) The fee on a **deed** executed in fulfillment of an original **land contract** dated between December 17, 1971, through August 31, 1981, should be calculated at the rate of 10¢ per \$100 of **value**. The amount of fee paid and "Rate 10¢ per \$100" should be entered on the face of the deed. RETNs, Q4 (March 1983), Q3 (11.B) (February 1994)
- (24) A **current amendment to an original land contract** recorded prior to August 1, 1992, causes the deferred fee to be collected by the Register of Deeds. In cases where a **deed** is recorded in partial satisfaction of the **land contract**, a fee is due only on the portion of the land contract that is satisfied. RETNs, Q6 (February 1994), Q12 (May 1994), Q2 (November 1993), Q7 (June 1993)

#### Refund

- (25) To obtain a **refund** of transfer fees erroneously paid to the **county**, send the request to the Bureau of Utility & Special Taxes, P.O. Box 8933, Madison, WI 53708-8933, and include: RETNs, Q20 (June 1988), Q1 & Q4 (November 1993), & Q14 (June 1996)
- a) Completed transfer return clearly marked "**Amended**,"
- b) **Copy** of recorded deed indicating fee paid, and
- c) Letter explaining the **amended return**, document supporting claim (i.e., **value** on sale, submit closing statement), and to whom and where the refund should be mailed. Grantor or his or her agent may only make claim.

## SECTION 1. GENERAL ADMINISTRATIVE GUIDELINES

### REFERENCES

#### Register of Deeds - Duties

- (26) The Register shall have no duty to determine either the correct **value** of the real estate transferred or the validity of any exemption claimed. RETNs, Q7 (March 1995 & Q4 (November 1981). Section 77.21(1), Stats. See also sec. 59.51(15), Stats.
- (27) The Registers are responsible for making sure the transfer form is filled out completely. RETN, Q1 (June 1996)
- (28) **Deeds** may be accepted without a transfer fee return where the reason for nonconveyance "or exemption" is stated on the deed. RETNs, Q6 (June 1996) & Q5 (January 1997)
- The statement for exemptions should read "This document is exempt from the fee and return per sec. 77.25 (1), (2), (2r), (4) or (11) Stats."
- The statement for nonconveyances should read "This document is exempt from the fee and return since it is not a conveyance by definition per sec. 77.21 (1) Stats.:
- a) "It gives notice of an existing partnership converting to a limited liability partnership as a confirmation deed."
- b) "It changes classification of title (husband and wife) to survivorship martial property."
- c) "It is an **option or right of first refusal** contract."

#### Sheriff's Sale

- (29) In a sheriff's sale, the transfer fee, if due, is imposed on the **grantor** (debtor) of the **real estate** conveyed [sec. 77.22(1), Stats.]. The state has a prior claim to the assets of the grantor; consequently, the fee should be deducted from the proceeds of the sale along with attorney's fees, filing fees, etc. RETN, Q15 (February 1986)
- (30) The sheriff or referee shall deduct the fee if due from the proceeds of the sale and deposit the fee and transfer return with the clerk of courts. RETN, Q1 (August 1989)
- (31) In a sheriff's sale, the debtor's name, address, and **social security number** should be entered on the return as **GRANTOR**. RETN, Q3 (June 1988)
- (32) With regard to transfer returns executed by agents or by sheriffs, social security numbers are required for buyer and seller. RETNs, Q13-14 (January 1987)

#### Weatherization Standards

- (33) For questions regarding Weatherization standards please call the Department of Commerce at (608) 267-2240. RETN, Q4 (February 1998)

## SECTION 2. DEFINITIONS

### Contingency:

- (1) An **exchange of properties** with a **real estate** developer, because the old lot did not fit the demands of the buyer (stated in a **contingency clause**), does not trigger a fee since the original contract was not consummated. (RETN, Q3, May 1985.)
- (2) A refund claim may be submitted where the original conveyance was **rescinded** because certain contingent sale conditions did not materialize. (RETN, Q9, May 1994.)

### Conveyances:

Includes **deeds** or other instruments for the passage of ownership interests in **real estate**, including contracts and assignments of a **vendee's interest** therein, but excluding **easements**, wills, or **leases**. An **option contract** or agreement that provides for the right of first refusal for the purchase of an interest in real estate is not a conveyance (Tax 15.01, Wis. Adm. Code). Leases for 99 years or greater are conveyances of real property (sec. 77.21(1), Stats.).

- (a) A has contracted with B, a **construction contractor**, to build an apartment on land owned by B. B conveys land to A and simultaneously signs a construction contract with A. This conveyance requires the filing of a return and the payment of a real estate transfer fee. The basis of the real estate transfer fee is the **consideration** given by A to B for the land and the constructed building. (RETNs, Q15, February 1984 and Q4, March 1995.)
- (b) A has contracted with B, a **construction contractor**, to build an apartment building on land owned by C. B arranges to buy the land from C for A, pursuant to the construction contract. After the apartment building is completed, a **warranty deed** is presented by B for C to A. This conveyance is subject to the filing of a return and the payment of a real estate transfer fee. The basis for the fee is the amount of consideration given by A for the land and the constructed building. (RETN, Q16, February 1984.)
- (c) **The following are conveyances:**
  - (1) Conveyances also include the Department of Transportation (**county** or state) acquisition of **highway right-of-way**. (RETN, Q6, June 1988.)
  - (2) If the original **condominium complex sale** was by deed and included a garage, a later sale of only the garage should be by deed. (RETN, Q10, June 1988.)
  - (3) A sale of a home or other **building on leased land** (land originally **leased for 99 years**) is a conveyance. The question of real versus **personal property** shall be resolved by following the **laws of "fixtures."** (RETNs, Q27, June 1988, and Q10, February 1991.)
  - (4) An **improvement on leased land** when sold, regardless of the term of the lease, is subject to the transfer fee. (RETNs, Q9, February 1991, and Q6, January 1997.)
  - (5) A bank forms a **development corporation** to develop a parcel of land into a bank office building project. The conveyance of a parcel of land to it is subject to a fee. (RETN, Q14, January 1989.)

## SECTION 2. DEFINITIONS

- (6) A **conveyance of air rights** is subject to the transfer fee. (RETN, Q12, February 1991.)
  - (7) **Assignment of vendee's interest** in an original **land contract** is subject to the transfer fee. (Section 77.21(1), Stats., and RETN, Q8, June 1993.)
  - (8) A **purchase of a life estate** is a conveyance subject to a fee. (RETN, Q19, June 1993.) The initial sale of the life estate is subject to transfer fee based upon the sales price.  
A repurchase of a life estate by a condominium association is subject to a transfer fee based upon the consideration paid or to be paid on the date of the repurchase. The fee is paid at the time the instrument is recorded terminating the life estate. (RETN, Q5, February 1998.)
  - (9) A **commission** payment that is paid to a **real estate broker** in the form of real property is a conveyance for consideration and is subject to fee. (RETN, Q6, May 1994.)
  - (10) If a **Judgment** or an **Abridgment of the Judgment** conveys an interest in real property and will be the only document to be recorded, a return is required. (RETN, Q8, May 1994). The Clerk of Courts may sign as agent on Line 61 and complete lines 62 through 70 of the new return (PE-500 r.11/97). (RETN, Q9, February 1998.)
  - (11) A fee is due on the fair market **value** of the property transferred where a person conveys their one-half interest to an unrelated person who holds the other one-half interest and no money is **exchanged**. (RETN, Q9, February 1994.)
  - (12) A PARTIAL or OTHER conveyance of an interest in real property is a transfer of less than the full bundle of rights that one could legally own. By example a PARTIAL conveyance would be a ½ interest in property. "OTHER" would be if a life estate was retained by the seller. These conveyances must be explained on Line 53 of the revised (PE-500 r.11/97) transfer return. (RETN, Q3, February 1998.)
- (d) The following are NOT conveyances:
- (1) An action of **quiet title** is now referred to as a **declaration of interest in real property**. It employs the legal theory of **adverse possession**. This legal action clarifies property interests that are claimed to already exist. Consequently, such an action does not convey property interest and hence is not a conveyance. (RETN, Q1, June 1982.)
  - (2) An **award of damages**, pursuant to judgment, does not convey real property. (RETN, Q1b, June 1982.) In condemnation proceedings, however, the deed or return may be the only document filed evidencing the passage of ownership interest of the property. (RETN, Q5, August 1989.)
  - (3) **Exploration and prospecting agreements** with options to lease between landowners and others. The executed future agreement would require the return and the fee. This type of lease is not the exempt lease as referred to in sec. 77.21(1), Stats. It is an agreement for obtaining a real property interest in that land. (RETN, Q6, February 1984.)
  - (4) An **option** or right to purchase contract or agreement is not a conveyance. (Tax 15.01, Wis. Adm. Code, and RETN, Q18, February 1991.)
  - (5) Conveyances of **cemetery lots**, as distinct from land conveyed for use as a cemetery, are not subject to the transfer fee. (Tax 15.05(6), Wis. Adm. Code.)

## SECTION 2. DEFINITIONS

### Non-Conveyances (Continued)

- (6) **Assignment of vendor's interest** in a land contract. (Section 77.21(1), Stats., and RETNs, Q15, June 1993 and Q3, November 1993.)
- (7) **Marital Property Conveyances** (a change in one form of ownership to another), if the intention is to comply with the marital property law, are not conveyances for purposes of sec. 77.21(1), Stats. However, if the property is subject to a mortgage, the transfer is not exempt since the spouse is considered to have assumed or taken subject to the **mortgage (consideration)**. (RETN, Q23, June 1988; Q20 & 21, February 1991; Q25, January 1992; and Q5, May 1994.) Effective September 1, 1996, sec. 77.25(8m), Stats., exempts all conveyances between **husband and wife**.
- (8) Deeds may be accepted **without a transfer return** where the reason for nonconveyance is stated on the deed. (RETN, Q6, June 1996.) See Register of Deeds Duties for examples of document statements to exempt from return on page 4.
- (9) An original lease of real property of less than 99 years is not a conveyance of real property by definition under sec. 77.21(1), Stats. The deed should state on its face "this is a lease of less than 99 years and is not **subject to a return**. (RETN, Q6, February 1998.)
- (10) The selling of a membership interest in an LLC is personal property and nothing needs to be recorded. If a deed is recorded Exemption 3 should be used. When completing the return, indicate Type of Transfer as "Other" and explain with the statement "reforming members on document number \_\_\_\_\_," with reference to the document number under which the LLC took title. (RETN, Q7, February 1998.)

### Easement:

A deed for right-of-way across another's parcel. (RETNs, Q2 (March 1995), Q15, February 1991.) An easement when transferred, while an interest in real property, is excluded as a taxable conveyance by definition sec. 77.21(1), Stats.

### Exchange:

[Tax 15.02(2), Wis. Adm. Code.] In an exchange of real properties, two separate and distinct conveyances are involved and the value should be separately determined for each. Please see below:

If (i) conveys a parcel X of real property worth \$100,000 to B, and (ii) B in turn conveys a parcel Y of real property worth \$20,000 plus cash of \$80,000 to A, both conveyances are taxable under sec. 77.22(1), Stats., and a return is required to be submitted for each conveyance. The basis of the real estate transfer fee for conveyance (i) is \$100,000 and for conveyance (ii) is \$20,000. Therefore the transfer fee for conveyance (i) is \$300 and that for conveyance (ii) is \$60. (RETN, Q7, February 1984, and Q3, June 1996.)

In a **three-party transaction** (where A **exchanges** property with B and where B purchased that property exchanged with A from C) consummated for purposes of an income tax free exchange, there are three transfer fees due. (RETN, Q14, August 1989.)

An **exchanged Timeshare** that is considered real property must be treated the same as all other real property exchanges. (RETNs, Q12, January 1992 and Q3, June 1993.) (See definitions of Real Estate, p. 10, and Timeshare, p. 46.)

## SECTION 2. DEFINITIONS

Questions to consider when trying to determine whether or not something is a **fixture**:

### **Fixtures:**

[Property Assessment Manual (1998), pp. 21.5-2 to 21.5-5]

A fixture is an item of property which under some circumstances may be treated legally as **personal property** but which has become so attached to land or buildings, or is used in such close association with the land or buildings, that the item is regarded as part of the land and, therefore is treated as real property and is included in the total **value** of the **real estate** transferred.

- (a) Is the article physically attached to the premises?  
Generally, if the item is so attached that it cannot be removed without causing substantial damage to the remaining realty, it is usually considered a fixture.
- (b) 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 usually considered a fixture. The item in question has less value if removed and taken somewhere else.
- (c) Was the intention of the owner to make the item a permanent part of the premises?  
Here the test is what the “average person normally intends” for the item, not what the owner intended. Generally, those items which the owner adds or affixes to the **real estate** will be considered a fixture.

### **Foster Child:**

A mutually acknowledged child is not a foster child for purposes of Exemption 8. (RETN, Q28, February 1991.)

### **Governmental Agency**

Included are:

- Department of Housing and Urban Development, 42 USCS § 3532
- Federal Intermediate Credit Bank, 12 USCS § 2071
- **Federal Land Bank**, 12 USCS § 2011
- Federal Land Bank Association, 12 USCS § 2031
- **Production Credit Association**, 12 USCS § 2091
- Veterans Administration, 38 USCS § 201
- Federal Home Mortgage Corporation
- Federal National Mortgage Association
- Farmers Home Administration
- Farmers Home Loan Mortgage Corporation
- Farm Credit Banks
- Federal Housing Authority
- Government National Mortgage Association (Ginnie Mae)
- Resolution Trust Corporation, 12 USCA § 1441 a (RETNs, Q5, June 1988, Q4; January 1989, Q24; February 1991 and Q18, June 1993.)

## SECTION 2. DEFINITIONS

### Improvements on Leased Land:

Improvements on leased land are considered fixtures and when transferred are subject to the return and fee (RETN, Q4, March 1995).

### Lien in a Sheriff's Sale:

The amount of the lien or liens (1st, 2nd **mortgagees**, mechanic's lien, etc.) on real property is reduced to a **judgment** in a **foreclosure** proceeding. If this property is adjudged to be sold, it would be sold to the highest bidder, generally at a sheriff's sale subject to the approval of the court. The amount of the lien or liens is that amount specified in the judgment of the foreclosure. (RETN, Q11, June 1982.)

NOTE: Section 77.25(14), Stats., exempts a **lien holder** from a transfer fee if that person is the **successful bidder**. (RETN, Q4 & Q5, February 1986.)

### Limited Liability Company (LLC):

(Chapter 183, Wis. Stats.) A business entity that is taxed like a **partnership**, but its members, like **corporation** shareholders, is not personally liable for its debts and liabilities.

### Limited Liability Partnership (LLP):

A business entity registered under sec. 178.40, Stats. A partnership is an association of 2 or more persons to carry on as co-owners a business for profit. A partnership includes a registered limited liability partnership and a foreign registered limited liability partnership.

### Local Exposition District:

(Subchapter II of Chapter 229, Wis. Stats.) A special purpose district sponsored by a municipality that is a unit of **government** that is separate and independent of the state and the sponsoring municipality.

### Mergers of Corporations:

This means the combination of two or more corporations under a plan of merger or a plan of consolidation or the combination of two or more limited liability companies (LLCs) under a plan of merger. This modified definition of mergers affects sec. 77.25(6), Stats., to include mergers between LLCs as well as corporations, even though not specifically stated in the exemption. Note that this does not allow an exemption for mergers between LLCs and corporations. (Sec. 77.21(1e), Stats.) (RETN, Q1, February 1994.)

### Nominal:

Nominal as used in the Exemptions secs. 77.25(3), (7), and (8), Stats., has a relative meaning but can be used for any value of \$100 or less.

Example: Sale of real estate with a value of \$100,000 by a father to a son for \$20,000. For a transaction to be exempt under Exemption sec. 77.25(8), Stats., the consideration must be nominal or less than nominal. A bargain purchase at 20% of value is not nominal. The conveyance is deemed part sale and part gift. The \$20,000 is deemed the sale and the fee is  $.003 \times \$20,000$ , or \$60. The \$80,000 is deemed a gift and exempt pursuant to Exemption 8. (RETN, Q14, March 1983.)

## SECTION 2. DEFINITIONS

### Partition:

- (a) "The dividing of lands held by joint tenants, coparceners, or tenants-in-common, into distinct portions, so that they may hold them in severalty, by mutual agreement or court ordered. Partition does not create or convey a new or additional title or interest, but merely severs the unity of possession." (RETNs, Q5, March 1983; Q2, June 1982; Q9, June 1993, and Q4, June 1996.)
- (b) The division among several persons of real property, including noncontiguous real property, that belongs to them as co-owners. See sec. 77.21(1k), Stats.
- (c) "**Action in Partition**," a lawsuit pursuant to Wisconsin Statutes, does not fit the definition of partition (RETN, Q9, June 1988.)
- (d) A conveyance by an owner of land (tenants-in-common) to the other is not exempt by partition. (RETN, Q6, June 1993.)

### Real Estate:

- (a) Real estate includes fixtures; **improvements on leased land**; stock in a cooperative building; roots, vines, and trees of perennial crops; timber and minerals. The definition of real estate may include **timeshares**. (RETN, Q12, January 1992 and Q10, June 1996.)
- (b) Uncut **Christmas trees** are considered real property. (RETN, Q11, January 1992.) A recorded deed for the sale of topsoil is subject to a return and fee. (RETN, Q20, January 1992.) **Memorandum of lease** of mineral, topsoil, gravel rights, or timber is a conveyance of real estate per sec. 77.21(1m), Stats. (RETN, Q12, June 1996.)
- (c) **Mobile homes** can be classified as real estate by municipalities if the following conditions apply: (RETN, Q11, February 1986 and sec. 70.043, Stats.)
  - (1) The home is on land owned by the homeowner.
  - (2) The home must be on a foundation.
  - (3) The home must be hooked up to utilities.

If condition (2) and (3) are met and the mobile home is on leased land, for transfer fee purposes, its sale is subject to the fee. A transfer fee is not due on the mobile home sale if registered with the Department of Transportation and subject to sales tax. The land sale, however, is still subject to the transfer fee in this case. (RETN, Q6, June 98.)

### Value:

[Section 77.21(3)]

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



## SECTION 2. DEFINITIONS

Value examples:

- (1) **Mortgaged property** worth \$108,000 was **donated to a charity**. The charity assumed the mortgage of \$60,000. The value of real property subject to the real estate transfer fee is the fair market value of \$108,000. (RETN, Q10, February 1984.)
- (2) Conveyance from a partner to a partnership. The measure of real estate transfer fee is the fair market value of real property conveyed to the partnership. (Tax 15.02(1), Wis. Adm. Code.)
- (3) Conveyance of real property by a person to a **limited partnership** in which he is a partner—the measure of value subject to the fee is the fair market value of the property conveyed. (RETN, Q5, June 1982) (Tax 15.02(1), Wis. Adm. Code.)
- (4) In a division of lands (**partition**) where one party receives a cash payment (boot) in addition to land, a fee is due. The fee is based upon the fee rate times the cash payment. (RETN, Q10, May 1985; also see example at RETN, Q9, June 1993.)
- (5) The value for fee purposes of an **assignment of a land contract** of vendee's interest is the amount of consideration received by the assignor plus the amount remaining to be paid under the land contract. (RETN, Q11, May 1985; also see RETN, Q18, June 1988.)
- (6)
  - (a) Value includes amounts paid by the buyer on behalf of the seller. **Broker commission** may not be deducted from the basis (selling price) of the fee. (RETNs, Q26 and 27, February 1991.)
  - (b) "Buyer's broker commission" paid to locate property for purchase is not consideration paid or to be paid on behalf of the seller. (RETN, Q4 & Q5, June 1998.)
- (7) An additional sum of money to be paid upon meeting certain requirements, a contingency, as set forth in the sales agreement, is included in the total value of property transferred. (RETN, Q1, November 1993.)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(1) <b>Prior to effective date of this subchapter (October 1, 1969)</b>	No	No	(a) <b>Deeds</b> in fulfillment of <b>recorded land contracts</b> dated prior to December 17, 1971. Deeds presented allegedly in fulfillment of an <b>unrecorded land contract</b> dated prior to December 17, 1971, should not be recorded as exempt until the land contract or evidence of the existence of a land contract is recorded. (This is necessary to prove that the land contract was in fact dated prior to December 17, 1971.)	Tax 15.04(2)(b), Wis. Adm. Code; sec. 77.255, 1987 Stats.
	Yes	Yes	(b) Deeds in fulfillment of unrecorded land contracts dated between December 17, 1971, and September 1, 1981, can be accepted with the fee at 10¢ per \$100 (.001 x 100). The unrecorded land contract need not be recorded as a prerequisite for charging the lower fee, because both the grantor and grantee have to certify to the date of the land contract.	RETN, Q8, (June 1982)
(2) <b>From the United States or from this state or from any instrumentality, agency, or subdivision of either.</b>	Yes	Yes	(a) Conveyances to government agencies of the United States or this state. Prior to September 1, 1987, conveyances to government agencies were exempt. See Exemptions secs. 7.25(2g) and (2r), Stats., following.	Sec. 77.25(2), Stats.; RETN, Q20 (June 1993)
	No Yes/Where Lender is Government	No	(b) Conveyances from government agencies of a municipality in this state. Where the transferor is also a lender for the transaction, a return must be filed.	Sections 77.25(2) and 77.255, 1987 Stats.
	Yes	Yes	(c) <b>Sheriff's Sale</b> —Sheriff does not acquire title. When a <b>successful bidder</b> is a third party with no prior interest in the deed or mortgage.	Tax 15.03(2)(a), Wis. Adm. Code
	Yes	Yes	(d) Court-ordered conveyances by a <b>county</b> to satisfy <b>an old age assistance lien</b> .	Tax 15.03(7), Wis. Adm. Code

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(2) (Continued)	Yes	Yes	(e) <b>Bankruptcy court-ordered conveyances.</b>	Tax 15.03(10), Wis. Adm. Code
	Yes	Yes	(f) Conveyances to or from the <b>Wisconsin Housing &amp; Economic Development Authority</b> (not a state agency).	RETN, Q14 (February 1986)
	Yes	Yes	(g) Conveyance to a <b>school district</b> . (Law revised 09/01/87).	Section 77.25(2), Stats.
	Yes	No	(h) Conveyance from a school district. (Law revised 09/01/87).	Section 77.25(2), Stats.; RETNs, Q10 (March 1983) & Q16 (January 1992)
	Yes	Yes	(i) Conveyance to the <b>Federal Land Bank</b> and <b>Production Credit Association</b> . (Law revised 09/01/87).	RETNs, Q1 (May 1985) & Q1 (February 1986)
	Yes	Yes	(j) Conveyances to a <b>foundation</b> set up to fund research and scholarships for a state university.	RETN, Q9 (January 1987)
	Yes	Yes	(k) <b>Property dedicated to a municipality</b> , but see sec. 77.25(2r), Stats.	RETNs Q24 (June 1988) & Q4 (August 1989)
	Yes	Yes	(l) <b>Conveyances</b> by a <b>Chamber of Commerce</b> .	RETN, Q2 (August 1989)
	Yes	No	(m) Conveyances by an enrolled tribal <b>Native American</b> to another enrolled <b>tribal</b> Native American. Assumption of correctness when reservation land boundaries are not indicated in <b>county</b> records.	RETNs, Q14 & Q15 (January 1992)
	Yes	No	(n) Conveyances by the <b>Red Cross</b> are considered as by a <b>government entity</b> .	RETN, Q23 (January 1992)

### SECTION 3. CONVEYANCES/EXEMPTIONS

	EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(2g)	By gift to the United States or to this state or to any instrumentality, agency, or subdivision of either.	Yes	No	Gift to <b>governmental agency</b> .	Section 77.25(2g), Stats.
(2r)	Under secs. 236.29(1) or (2) or 236.34(1)(e), Stats., 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.	No	No	<b>Conveyance</b> to <b>government</b> for highway construction.	Section 77.25(2r), Stats.
(3)	Which, executed for nominal, inadequate, or no consideration, confirms, corrects, or reforms a conveyance previously recorded.	Yes	No	(a) <b>Correction deed</b> or correction instrument.	Section 77.25(3), Stats.; RETN, Q24, (January 1992)
		No	No	<p>EXAMPLES OF DEED CORRECTIONS</p> <p>Not Requiring Returns:</p> <ul style="list-style-type: none"> <li>◦ Add middle initial to name of <b>grantor</b> or <b>grantee</b></li> <li>◦ Correct misspelled grantor or grantee name</li> <li>◦ Add execution or acknowledgment date</li> <li>◦ Correct legal description without adding or deleting property</li> <li>◦ Redescribing legal description (now known as)</li> <li>◦ Record <b>boundary line agreement</b></li> <li>◦ Property line clarification</li> </ul> <p>If in doubt require a return. See (b) and (c) below!</p> <p><u>Judgement of Register of Deeds is required as to whether the deed being recorded is a new conveyance. If not, no return, but filer must exempt it (not done by Register of Deeds).</u></p>	RETNs, Q11 (May 1994) & Q5 (January 1997)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(3)	(Continued)	No	No	(b) Re-recording of a warranty deed because of the <b>addition of a name</b> on the deed if the addition was made within a short time (a month) of the original recording. <b>Judgment of Register of Deeds.</b>	RETNs, Q17 (February 1984), Q8 (February 1994), Q24 (January 1992), sec. 77.25(3), Stats.
		Yes	Yes	(c) Re-recording of a warranty deed because of the addition of a name on the deed several years after the original recording. (If in doubt, express that doubt to the grantee, or agent of the grantee.)	RETNs, Q17 (February 1984) & Q8 (February 1994)
		Yes	No	(d) To fill out a return accompanying a <b>correction deed</b> , fill out exactly as original return except for items being corrected. Check "other" type of transfer and explain "correcting deed recorded as document # _____."	RETNs, Q19 (June 1988), Q7 (February 1991). Also Q15 (June 1996).
		Yes	Yes	(e) Recording of a conveyance, in which no <b>consideration</b> was given by the <b>grantee</b> , is not exempt. Only corrections of previously recorded <b>deeds</b> qualify.	RETN, Q9 (January 1992)
		No	No	(f) Recorded <b>boundary line agreement.</b>	RETN, Q21 & Q24 (January 1992)
		Yes	No	(a) <b>County sale</b> for delinquent taxes. (Law revised September 1, 1987, return required.) If <b>Sheriff's sale</b> is caused by bank <b>foreclosure</b> , it may be taxable. See Sheriff's sales in Section 4.	RETNs, Q9 (Revised November 1981) & Q13 (August 1989)
(4)	On sale for delinquent taxes or assessment.	No	No	(b) Where property is sold at an auction to a private individual.	RETN, Q8 (June 1988)
		No	No	(c) If a county causes a property to be sold for back taxes in accordance with Chapter 74 or 75 of the Wisconsin Statutes.	RETN, Q5 (January 1989)

### SECTION 3. CONVEYANCES/EXEMPTIONS

	EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(5)	On partition. Defined at sec. 77.21(1k), Stats.	Yes	No	(a) "The dividing of lands held by <b>joint tenants</b> , coparceners, or <b>tenants-in-common</b> into distinct portions so that they hold them in severalty. Partition does not create or convey a new or additional title or interest, but merely severs the unity of possession."	RETN, Q5 (March 1983)
		Yes	No	(b) The division of real property held by <b>joint tenants</b> , <b>coparceners</b> , or tenants-in-common in accordance with a <b>court-ordered judgment</b> .	RETN, Q2 (June 1982)
		Yes	Yes	(c) <b>Court-ordered</b> sale of property to a third party and proceeds split by relatives who could not agree on <b>partition</b> . Partition does not apply where a person conveys an interest in real property.	RETNs, Q17 (January 1987), Q6 & 9 (June 1993), & Q9 (February 1994)
(6)	Pursuant to mergers of corporations. Defined at sec. 77.21(1e), Stats.	Yes	No	(a) Transfer of real property of corporation A to corporation B pursuant to a merger agreement, by which corporation A is to be merged with corporation B. Transfer of real property of Limited Liability Company (LLC) "A" to LLC "B" pursuant to a merger agreement, by which LLC is to be merged with LLC "B." (See definition of "mergers" in Section 2 of this guide.)	Section 77.25(6), Stats., RETNs, Q22 (January 1992) & Q1 (February 1994)
		Yes	No	(b) A conveyance according to a <b>Confirmed Plan of Reorganization of the U.S. Bankruptcy Code</b> [11 USCS § 1146(c)].	RETN, Q16 (June 1993)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(7) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration or cancellation, surrender, or transfer of capital stock between parent and subsidiary corporation.	Yes	No	(a) Conveyance as stated in the exemption column.	Section 77.25(7), Stats.
	Yes	Yes	(b) Conveyance from a parent corporation to a subsidiary corporation in <b>exchange</b> for <b>stock</b> .	Tax 15.03(1)(h), Wis. Adm. Code
	Yes	Yes	(c) Conveyance from an individual to a corporation, and conveyance from a corporation to an individual. (Exception: see Exemption 15.)	Tax 15.03(1)(b), Wis. Adm. Code
	Yes	Yes	(d) Conveyances from a partnership to a corporation, and conveyances from a corporation to a partnership.	Tax 15.03(1)(a), Wis. Adm. Code
	Yes	Yes	(e) From one <b>corporation</b> to another, both of which are subsidiaries of the same corporation.	Tax 15.03(1)(d), Wis. Adm. Code
	Yes	Yes	(f) From a corporation to its stockholders pursuant to a <b>plan of liquidation</b> . (Exception: see Exemption 15.)	Tax 15.03(1)(c), Wis. Adm. Code
	Yes	Yes	(g) From a <b>corporation</b> to its <b>stockholders</b> as part of the <b>dissolution</b> of the corporation. (Exception: see Exemption 15.)	RETN, Q7 (March 1983)
	Yes	Yes	(h) From a <b>corporation</b> to another caused by a " <b>spin-off</b> ." A spin-off occurs when, after a part of the assets of corporation A is transferred to corporation B controlled by transferor A, <b>stock</b> or securities in the latter B are distributed to the shareholders of the controlling corporation A, without surrender by corporation B's shareholders of any of their stock or securities.	Tax 15.03(1)(e), Wis. Adm. Code.

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(7)	(Continued)	Yes	Yes	(i) From a corporation to another caused by a “ <b>split-up</b> .” In a split-up, the distributing corporation A transfers its assets to two or more newly-created corporations in <b>exchange</b> for their <b>stock</b> and effects a complete <b>liquidation</b> , A’s shareholders receiving stock in the new corporations in exchange for the distributing corporation’s stock.	Tax 15.03(1)(f), Wis. Adm. Code
		Yes	Yes	(j) From one <b>corporation</b> to another pursuant to any <b>bankruptcy</b> provision, but see Confirmed Plan of Reorganization, Sec. 3 (6) b of “Guidelines.”	Tax 15.03(1)(g), Wis. Adm. Code; RETN, Q6 (June 1993)
(8)	<b>Between parent and child, stepparent and stepchild, parent and son-in-law, or parent and daughter-in-law for nominal or no consideration.</b>	Yes	No	(a) Conveyances as stated in the exemption column—the <b>value</b> of the <b>real estate</b> transferred must be stated on the transfer return.	Section 77.25(8), Stats.; RETN, Q5 (May 1994)
		Yes	No	(b) A <b>gift</b> of home owned by former <b>daughter-in-law</b> to parents of deceased son.	RETN, Q12 (June 1993)
		Yes	Yes	(c) <b>Conveyance</b> between a <b>grandparent</b> and a <b>grandchild</b> .	RETNs, Q9 (March 1983) & Q3 (January 1989)
		Yes	Yes	(d) Sale of real <b>property between husband and wife</b> , or parents and child. (A sale means a transaction where more than <b>nominal</b> consideration is involved.) However, see new Exemption 8M for conveyances after 9/1/96.	Tax 15.03, Wis. Adm. Code
		Yes	Yes	(e) Conveyances of real property <b>between stepchildren, natural children</b> .	Tax 15.03(3), Wis. Adm. Code



### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(8) (Continued)	Yes	Yes	(f) An assignment of a <b>land contract</b> vendee's interest to a <b>trust</b> , created for the benefit of the <b>grantor's children</b> . The basis for the fee is the balance of the land contract assumed (plus any additional <b>consideration</b> ). Exemption 8 cannot be used since the trust has a separate legal existence. Exemption 16 cannot be used since the debt assumed by the trust is consideration.	RETN, Q2 (February 1984), Tax 15.04(3), Wis. Adm. Code
	Yes	Yes	(g) A brother and a sister own real property jointly and convey for a consideration of \$10,000 the property to the son of the sister—the measure of the real estate transfer fee is \$10,000—the transfer between uncle and nephew is not exempt, and the sale from mother to son is not exempt.	Tax 15.03, Wis. Adm. Code
	Yes	Yes	(h) Sale of <b>real estate</b> with <b>value</b> of \$100,000 by a <b>father</b> to a son for \$20,000. For a transaction to be exempt under Exemption sec. 77.25(8), Stats., the <b>consideration</b> must be <b>nominal</b> or less than nominal. The <b>conveyance</b> is deemed part sale and part <b>gift</b> . The \$20,000 is deemed the sale and the fee is .003 x \$20,000, or \$60. The \$80,000 is deemed the gift and exempt pursuant to Exemption 8.	RETN, Q14 (March 1983)
	Yes	Yes	(i) The satisfaction of a <b>land contract</b> by <b>gift</b> is always taxable, including sale from a parent to a child under land contract. Fee is due on the full value of the land contract.	RETNs, Q10 (January 1987), Q3 (IV., A) (February 1994)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(8) (Continued)	Yes	Yes	(j) A deed in fulfillment of a land contract between parents and <b>children</b> is a sale for consideration.	RETN, Q15 (June 1988) & Q12 (June 1993)
	Yes	Yes/No	(k) A father-in-law <b>gifts</b> property to <b>daughter-in-law</b> after son died. It is exempt if daughter-in-law has not remarried.	RETNs, Q3 (January 1989) & Q12 (June 1993)
	Yes	Yes/No	(l) Transfer of <b>life estate</b> by mother to daughter. Exempt if by <b>gift</b> .	RETNs, Q7 (August 1989) & Q4 (February 1991)
	Yes	Yes	(m) Unmarried couple who own property together convey property to one. Fee is based on ½ of fair market <b>value</b> if <b>gift</b> or on selling price if a bona fide sale.	RETN, Q11 (February 1991)
	<u>Yes</u>	<u>Yes</u>	(n) <u>Grandmother gifts her home to granddaughter and reserves life estate; Exemption 8 or 13 do not apply.</u>	<u>RETN, Q3 (October 1997)</u>
	<u>Yes</u>	<u>No</u>	(o) <u>A transfer of a life estate as above must be explained on Line 53 of the revised (PE-500 r-11/97) transfer return. The reason is that the conveyance is not a full interest in the property.</u>	<u>RETN, Q3 (February 1998)</u>
(8m) Between Husband and Wife [effective 09/01/96]	Yes	No	(a) The exemption applies to any conveyance between husband and wife effective for conveyances dated on or after September 1, 1996. Note that Exemption sec. 77.25(8), Stats., no longer applies to spousal conveyances but only between parent and child for no or nominal consideration.	RETN, Q1 (January 1997)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(8m) (Continued)	Yes	No	(b) A <b>conveyance</b> by a <b>divorce decree</b> —the <b>nominal consideration test</b> is not required to be satisfied. “Other should be indicated on the return and explanation should be ‘per divorce decree’.”	RETNs, Q8 (November 1981), Q11 (June 1993), & Q7 (May 1994)
	Yes	Yes	Note: A husband conveying his vendee’s interest in an original deferred <b>land contract</b> per a divorce decree to his wife requires the deferred fee to be paid on that contract. The assignment, however, is exempt.	
	Yes	Yes	(c) Property is to be sold to a third party according to <b>divorce decree</b> . Former wife buys property.	RETN, Q1 (June 1988)
	Yes	No	(d) <b>Conveyance</b> from one spouse to both <b>for marital property</b> purposes; both obligated for <b>mortgage</b> before the conveyance. See Exemption 3.	RETNs, Q5 (January 1992, Q5 (May 1994)
	Yes	No	(e) Conveyance from one spouse to both for marital property purposes; one spouse only obligated by <b>mortgage</b> before the conveyance.	RETNs, Q21 (February 1991), Q25 (January 1992), & Q5 (May 1994)
	Yes	Yes No Effective 9-1-96	(f) A man gives his wife his total interest in a certain <b>land contract</b> and files with the Register of Deeds an assignment of land contract. There is <b>consideration</b> involved in the transfer: the wife is assuming the liability of the husband, and paying off the land contract, which is consideration. The basis of the fee is the remaining amount due under land contract.	RETN, Q5 (February 1984)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(8m) (Continued)	Yes	Yes No Effective 9-1-96	(g) A owned property prior to marriage to B. Upon their marriage A conveys title to B showing they own the property together. If the property is subject to <b>mortgage</b> , a transfer fee is due on one-half the debt obligation.	RETN, Q5 (May 1994)
<b>(9) Between agent and principal or from a trustee to a beneficiary without actual consideration.</b>	Yes	No	(a) Conveyances as stated in the exemption column. This exemption for a <b>trust conveyance</b> can only be used conveying from a trust. See Exemption 16 for conveyances to a trust.	Section 77.25(9), Stats.
	Yes	No	(b) From a <b>trustee</b> to trustee. As long as the new trustee is holding the property for the same trust, there is no taxable conveyance under the statute.	RETN, Q9 (February 1984)
	No	No	(c) A will directs that real property be conveyed to the <b>grandchildren</b> of the deceased. Since the <b>children</b> are <b>minors</b> , the estate transfers the property to a <b>trust</b> set up for them. Exemption 11 applies.	RETN, Q8 (May 1985)
	<u>Yes</u>	<u>No</u>	<u>(d) A trust is technically a separate legal entity. In the case of transfers to a <b>revocable living trust</b> from a grantor however, the DOR will treat the conveyance as exempt.</u>	<u>RETN, Q4, (January 97)</u>
	Yes	Depends on agency	(e) An individual who owns <b>stock</b> of a <b>corporation</b> acts as <b>agent</b> for purchase contract of <b>real estate</b> .	RETN, Q12 (January 1987), also see correction, RETN, Q1 (January 1989)
	Yes	Yes	(f) Where B purchases property for A from C and provides financing for A, only one fee is due.	RETN, Q13 (February 1991)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(9)	(Continued)	Yes	Yes	(g) Same facts as in (f), but B purchases on speculations, two fees are due.	RETN, Q14 (February 1991)
		Yes	No	(h) The transfer by a defunct savings and loan company to <b>Resolution Trust Corporation</b> is exempt since the corporation is acting as a <b>receiver</b> or <b>agent</b> .	RETN, Q25 (February 1991)
		Yes	No	(i) Spouses conveying real property to a <b>strawperson/agent</b> , then back to <b>husband and wife</b> for <b>marital property</b> purposes, may claim exemption on both deeds.	RETN, Q10 (January 1992)
		<u>Yes</u>	<u>Yes</u>	<u>(j) After a settler (grantor) created a trust, he conveyed property to it. He then sold the “beneficiaries” rights to the trust. The rights sold are personal property and need not be recorded – similar to common stock sales. The transfer from the trust to a new “beneficiary” is subject to the fee. This treatment is the same as purchasing property from the trust.</u>	<u>RETN, Q5 (October 1997)</u>
(10)	<b>Solely in order to provide or release security for a debt or obligation.</b>	Yes	No	(a) <b>Conveyances</b> as stated in the exemption column. Note: Exemption 10 is only to provide or release security for a debt—this is not a conveyance of real property. See Exemption 14 for <b>sheriff’s sales</b> and <b>deeds-in-lieu of foreclosure</b> .	Section 77.25(10), Stats.
		No	No	(b) Property pledged as security for a debt; document states for <b>“collateral purposes only.”</b> This is not a conveyance of real property. This action may trigger a fee. See Section 4, Land Contract, #29.	RETNs, Q12 (May 1985) & Q1 (March 1995)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(10) (Continued)	Yes	No	(c) The vendee of an original <b>land contract</b> quit claims his interest back to the vendor of that contract for no <b>consideration</b> ; that is, no cash payment or other type of consideration aside from being released from the land contract obligation.	RETN, Q4 (June 1982); also see Exemption 14
	Yes	No	(d) <b>"Deed of Trust"</b> places real property with the trustee. Upon default by mortgagor, trustee transfers property to lender or successful bidder.	RETN, Q3 (January 1997)
	Yes	No	(e) Filing of a <b>purchase money mortgage</b> and security note. The term "purchase money mortgage" is defined by sec. 708.09, Stats., as follows: "A purchase money mortgage is one given as part of the transaction of purchase to the vendor of real estate for all or part of the purchase money or to a 3rd person who advances all or part of the purchase money."  Under this definition, <b>"purchase money mortgage"</b> is synonymous with the more commonly used "mortgage." Ordinarily, a form would not be required. However, due to the variety of forms and drafting techniques employed by lawyers, it would be prudent to peruse documents labeled "purchase money mortgage" to ascertain if they are mere mortgages or actually <b>land contracts</b> .	RETN, Q11 (November 1981, revised February 1984)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(10) (Continued)	Yes	Yes	(f) The vendee of an original land contract sells back his interest to the vendor of that contract. A fee is due and the basis of that fee is the amount of consideration given up by the original vendor, i.e., the cash given to the vendee plus the amount of debt forgiven by the vendor.	RETN, Q1 (March 1983)
	No	No	(g) <b>Assignment of vendor's interest</b> in a land contract. Such a transfer is not within the definition of sec. 77.21(1), Stats., because it does not provide for the passage of ownership interest in real estate.	Tax 15.04(4), Wis. Adm. Code
	Yes	Yes	(h) A sale or assignment of vendee's interest in a land contract which is dated October 1, 1969, or thereafter. Also, see Section 4, Land Contracts, #29.	Tax 15.04(3), Wis. Adm. Code
	Yes	Yes	(i) Deed in fulfillment of an original <b>land contract</b> dated December 17, 1971, or thereafter.	Tax 15.04(2), Wis. Adm. Code
	No	No	(j) Assignment of vendee's interest in a <b>land contract</b> to a bank "solely in order to provide security." The transfer document should clearly state that the assignment is made for security purposes only. See RETN, Q5 (February 1994) for bank transfers after repeal of deferred fees on original land contracts. See Section 4, Land Contract, #29.	RETNs, Q12 (November 1981), Q3 (March 1983), & Q5 (February 1994)
	Yes	Yes	(k) <b>"Bare assignment"</b> of a vendee's interest. Since the debt remains to be paid on the original land contract, it is implied that the assignee has assumed this debt rather than accepting the assignment for <b>collateral</b> purposes only.	RETN, Q2 (January 1987)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(10)	(Continued)	Yes	No	(l) A <b>local housing authority</b> issues bonds for low interest mortgages. The exchange of deeds from the mortgagor to the housing authority and back again serves to perfect the lien of the housing authority.	RETN, Q16 (January 1989)
		<u>Yes</u>	<u>Yes</u>	(m) <u>Boyfriend cosigns note and was put on deed when home was purchased. Later he transferred his interest to girlfriend. Fee is due since he is actually conveying ½ interest to her.</u>  <u><b>Example of proper use of EX10:</b> “A” is buying property and bank wants “B” to cosign note and be put on title. “A” should solely take title from seller and “A” then gives deed to “B” for “collateral purposes only” using EX10. When “B” is no longer needed for collateral he may convey collateral interest back to “A” using again EX10.</u>	<u>RETN, Q4 (October 1997)</u>
(11)	<b>By will, descent, or survivorship.</b>	No	No	(a) Transfer of real property to heirs or offspring by will.	Sections 77.25(11) and 77.255, Stats.
		No	No	(b) <b>Certificate of termination</b> issued by the county court upon petition by interested persons in the realty upon the death of a person holding a <b>life estate</b> in real property or upon the death of a person who is a <b>joint tenant</b> in real property.	Sections 77.25(11) and 77.255, Stats.
		No	No	(c) <b>Descent</b> —when a person dies “ <b>intestate</b> ” (without leaving a valid will), that person voluntarily agreed that the State of Wisconsin would distribute the estate to the heir(s) according to the statute of descent and distribution.	Sections 77.25(11) and 77.255, Stats.
		Yes	Yes	(d) <b>A sale pursuant to a will</b> does not qualify for an exemption.	RETN, Q5 (February 1991)



### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(11)	(Continued)	Yes	Yes	(e) A <b>nonprobate judgment</b> conveying real property presented for recordation which is the only document evidencing the <b>conveyance</b> .	RETN, Q1c (June 1982)
		No	No	(f) One heir receives all of the real estate and other heirs receive cash by mutual agreement, approved by the judge in the <b>estate settlement</b> .	RETN, Q7 (January 1987)
		Yes	Yes	(g) <b>Deeds</b> in satisfaction of a <b>land contract</b> caused by <b>will, descent, or survivorship</b> are not exempt because the original deferred fee land contract conveyed the real property and the deed in satisfaction is only conveying a personal interest in the debt obligation per the <b>Doctrine of Equitable Conversion</b> .	RETN, Q3 (IV., B) (February 1994)
(12)	<b>Pursuant to or in lieu of condemnation.</b>	Yes	No	(a) Real property appropriated for public use under the right of eminent domain.	Section 77.25(12), Stats.
		Yes	No	(b) Conveyance to a governmental agency is not subject to a fee if Exemption 12 applies. Exemption 2 no longer applies, but see Exemption (2g).	RETN, Q16 (June 1988)
		Yes	Yes	(c) Where a municipality negotiates to buy property without threat of condemnation.	RETN, Q8 (March 1995)
		Yes	Yes/No	(d) Where a public utility <b>exchanges</b> property with a fraternal organization and property acquired by utility will be used for utility purposes:	RETN, Q11 (January 1989)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(12) (Continued)			1. the transfer from the fraternal organization is exempt (in lieu of <b>condemnation</b> ); and 2. the transfer from the utility is taxable.	
(13) Of real estate having a value of \$100 or less.	Yes	No	(a) Conveyances as stated in the exemption column.	Section 77.25(13), Stats.
	<u>Yes</u>	<u>Yes</u>	(b) <u>Grandmother gifts her home to granddaughter and reserves life estate; Exemption 8 or 13 do not apply. Report full market value of remainder interest.</u>	<u>RETN, Q3 (October 1997)</u>
(14) 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.	Yes	No	(a) When a defendant holding a mortgage is the <b>successful bidder</b> .	RETN, Q4 (February 1986)
	Yes	No	(b) When the mortgagor files <b>bankruptcy</b> after <b>foreclosure</b> action is begun. Property conveyed to lender.	RETN, Q3 (January 1992)
	Yes	No	(c) When bank forecloses on personal home used for a business loan.	RETN, Q13 (January 1992)
	Yes	Yes	(d) When the grantee is a third party with no prior interest in the deed or mortgage. A third party is anyone who is not listed on the foreclosure action as a plaintiff or defendant.	Tax 15.03(2), Wis. Adm. Code & RETNs, Q16 (March 1983) & Q5 (February 1986)
	Yes	No	(e) A deed from the vendee back to the original vendor under foreclosure or in lieu of foreclosure is exempt. <u>Note</u> : this transaction does not qualify for a <b>refund</b> of the transfer fee if a fee was paid when the original <b>land contract</b> or an amendment was recorded.	RETN, Q3 (Ill., B) (February 1994)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
<u>Exemption 15 Series</u>			<p><u>Example of "who are related to each other as spouses, lineal ascendants, lineal descendants, siblings or spouses of siblings:"</u>  <u>Sole: Sole individual (Corporation or LLC only)</u>  <u>Spouses: Husband &amp; Wife</u>  <u>Lineal: Parents &amp; Children</u>  <u>Parents and Son-in-law or Daughter-in-law</u>  <u>Grandparents &amp; Grandchildren</u>  <u>Siblings: Brothers &amp; Sisters</u>  <u>Spouses of Siblings: Brothers and Sisters-in-law;</u>  <u>Brothers &amp; Brothers-in-law; Sisters &amp; Sisters-in-law;</u>  <u>Sisters &amp; Brothers-in-law &amp; Sisters-in-law or Brothers-</u>  <u>in-law</u></p> <p><u>Uncles, aunts, nieces &amp; nephews do not meet the above relationship requirement.</u></p> <p><u>Siblings of spouses, where the spouses are not parties to the conveyance, do not qualify for the Exemption 15 series unless they are also brothers or sisters of each other. Brothers or sisters-in-law are defined as a brother or sister of one's spouse. A brother-in-law or sister-in-law of the husband are not related to the brother-in-law or sister-in-law of the wife.</u></p>	<p><u>RETN, Q2 (October 1997)</u></p> <p><u>RETN, Q1, (June 1998)</u></p>

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(15) <b>Between a corporation and its shareholders, if all of the stock is owned by persons who are related to each other as spouses, lineal ascendants, lineal descendants, siblings, or spouses of siblings, if the transfer is for no consideration except the assumption of debt or stock of the corporation and if the corporation owned the property for at least three years.</b>	Yes	No	(a) Transfers to or from a (if corporation held more than three years) corporation which is solely owned by an individual, his/her spouse, or lineal ascendants or descendants for no <b>consideration</b> except stock. For <b>conveyances</b> dated on or after April 29, 1994, sec. 77.25(15), Stats., has been amended to allow for shareholders to be siblings or spouses of siblings and for the assumption of debt by the <b>grantee</b> .  <u>The 3-year requirement only applies for conveyances coming out of (FROM) corporations. This holding period is in addition to the other requirements of Exemption 15.</u>	RETNs, Q2 (February 1986), Q5, Q14 (June 1993), & Q3 (May 1994); Exemption sec. 77.25(15), Stats., amended April 29, 1994  RETN, Q2 (February 1998)
	Yes	Yes	(b) Effective for conveyances dated on or after April 29, 1994, sec. 77.25(15), Stats., has been amended to allow for the assumption of debt. Previously the assumption of debt caused the conveyance to be subject to a fee.	RETNs, Q3 (February 1986) & Q3 (May 1994)
			(c) A corporation solely owned by son transfers property to father, mother, brother, and himself. Fee is due on entire fair market value.	RETN, Q3 (January 1987)
	Yes	Yes/No	(d) Transfer from sole stockholder to a corporation where the <b>corporation</b> assumes the debt of the stockholder. <b>Conveyances</b> dated on or after April 29, 1994, do not require a fee when the <b>grantee</b> assumes debt. RETNs, Q4 (January 1987) and Q3 (May 1994).	RETNs, Q3 & Q4 (January 1987), Q17 (January 1989), & Q3 (May 1994)
	Yes	No	(e) Transfer from:  (i) Individual to Corporation A. Individual owns all stock in Corporation A.	RETN, Q11 (January 1987)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(15)	(Continued)	Yes	Yes	(ii) Corporation A to its wholly owned subsidiary B.	
		Yes	Yes	(iii) Subsidiary B to the individual.	
		Yes	Yes/No	(f) Transfer of a vendee's interest in an original land contract to a wholly owned corporation. Effective April 29, 1994, sec. 77.25(15), Stats., has been amended to allow for the assumption of debt for conveyances on or after this date. This action may trigger a fee. See Section 4, Land Contract, #29.	RETNs, Q15 (January 1987) & Q3 (May 1994)
		Yes	Yes/No	(g) Transfer by brother and brother to a corporation owned by them. Effective for conveyances on or after April 29, 1994, sec. 77.25(15), Stats., has been amended to allow for siblings on or after this date.	RETNs, Q2 (February 1986), Q22 (February 1991) & Q3 (May 1994)
		Yes	Yes/No	(h) Transfer of property subject to a mortgage. Effective for conveyances on or after April 29, 1994, sec. 77.25(15), Stats., has been amended to allow for the assumption of debt on or after this date.	RETNs, Q23 (February 1991) & Q3 (May 1994)
(15m)	<b>Between a partnership and one or more partners if all of the partners are related to each other as spouses, lineal ascendants, lineal descendants, siblings, or spouses of siblings, and if the transfer is for no consideration other than assumption of debt or an interest in the partnership.</b>	Yes	No	(a) Effective July 1, 1992.	Sec. 77.25(15m), Stats.
		Yes	No	(b) Transfers to or from a partnership if partners are spouses, lineal ascendants or descendants, siblings, or spouses of siblings of each other for no consideration. (See examples below.)	RETN, Q2 (February 1988) and Q2 (October 1997)
				(i) Husband ("H") and wife ("W") to "H" and "W" Partnership	RETN, Q9 (June 1982) and Q2 (October 1997)
				(ii) Mom and Dad to Mom and Dad Partnership	
				(iii) Mom, Dad, Son, and Son's Wife to Mom, Dad, Son, and Son's Wife Partnership.	RETN, Q4 (June 1988)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(15m) (Continued)			(iv) Brother and Brother to Bother and Brother Partnership.	
	Yes	Yes	(c) Partnership distributes property to partner and ownership of partnership does not change in any way.	RETN, Q15 (August 1989)
	No	No	(d) A deed filed indicating a conversion of a partnership to a limited liability partnership. The enabling statute states that the partnership is the same partnership that existed before registration as an LLP. The deed should state "This is not a conveyance per sec. 77.21(1), Stats., and is not subject to a transfer return or fee. This is a confirmation deed pursuant to sec. 178.40, Stats., to give notice of an existing partnership converting to a limited liability partnership."	RETNs, Q 6 & 11 (June 1996)
(15s) <b>Between a limited liability company and one or more of its members if all of the members are lineal ascendants, lineal descendants, siblings, or spouses of siblings, and if the transfer is for no consideration other than the assumption of debt or an interest in the liability company.</b>	Yes	No	(a) Effective January 1, 1994, transfers to or from a limited liability company (LLC) if its members are lineal ascendants or descendants, siblings, or spouses of siblings, and if the transfer is for no <b>consideration</b> other than the assumption of debt or an interest in the limited liability company (LLC). (See examples below.)	Section 77.25(15s), Stats.; RETNs, Q1 & Q2 (February 1994) & Q9 (March 1995)
			(i) To or from an LLC and the individuals who are members are related as stated in the exemption. This property may also be indebted.	Section 77.25(15s), Stats.; RETN, Q2 (February 1994)
			(ii) An LLC merges with another LLC by filing proper notice with the Secretary of State's office per sec. 77.25(6), Stats. (See definition of merger, sec. 77.21(1e), Stats., and Section 2 of this guide.)	Section 77.25(6), Stats.; RETNs Q2 (February 1994) & Q9 (March 1995)

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(15s) (Continued)	Yes	Yes	(b) Transfers are not exempt:  (i) To or from a <b>corporation</b> or partnership to an LLC whose members are the same as the shareholders in the corporation or partners in the partnership. Fee is due on full value of real property.  (ii) From an LLC consisting of multiple members to only one member upon liquidation. Fee due on full value of real property.  (iii) Merger between a corporation and an LLC (if possible). Fee due on full value of real property.  (iv) Partnership to LLC.	RETN, Q2 (February 1994)          RETN, Q8 (November 1995)
	<u>Yes</u>	<u>Yes 1/2</u>	<u>(c) (H)husband &amp; (W)wife jointly own property and transfers it to "LLC, solely owned by "W". (Restructure to exempt from fee: "H" transfers his interest to "W" then "W" transfers to LLC. - two step).</u>	<u>RETN, Q1 (October 1997)</u>
	<u>Yes</u>	<u>Yes 1/2</u>	<u>(d) Wife owns LLC and wants LLC to convey property to both Husband and Wife. There is a fee on ½ of value since husband is not a member. You should restructure conveyance. LLC should convey to Wife then Wife may convey ½ interest to Husband fee free. Each then conveys their interest into LLC.</u>	<u>RETN, Q1 (February 1998) and Q1 (October 1997)</u>
	<u>No</u>	<u>No</u>	<u>(e) See under Section 2 Definitions "Sale of a membership interest in a LLC", if you record a document.</u>	<u>RETN, Q7 (February 1998)</u>

### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(16) To a Trust if a transfer from the grantor to the beneficiary of the trust would be exempt under this section.	Yes	No	(a) A conveyance as stated in the exemption column. The test is that if the initial transfer from the grantor went directly to the primary beneficiary of the trust and Exemption 8 applied, then Exemption 16 would apply.	Exemption sec. 77.25(16), Stats.; RETNs, Q20 (January 1987) Q13 (June 1996). Note: This exemption makes RETN, Q13 (May 1985) obsolete.
	Yes	Yes	(b) An <b>assignment of a land contract vendee's interest</b> to a trust by husband and wife, created for the benefit of the wife. Exemption 8 or 16 cannot be used since the vendee trust must pay off land contract ( <b>consideration</b> ). These exemptions state "for no or <b>nominal</b> consideration." Exemption 77.25(8m) applies for conveyances between husband and wife effective 09/01/96, making this position obsolete. (See RETN, Q4 January 1997.)	RETN, Q1 (January 1987) and Q4 (January 1997)
	Yes	No	(c) Transfer to a trust by the grantor for grantor's benefit. (Grantor is primary beneficiary.) Upon death of the grantor, the trust property will be conveyed to the of grantor's best friend.	RETN, Q20 (January 1987)
	Yes	No	(d) Parent transfers property to trust for benefit of son. Secondary benefit (death of son) is a state university.	RETN, Q25 (June 1988)
	Yes	Yes	(e) One-sixth of value of property is exempt where parents transfer property to a trust where their son is an equal beneficiary with five unrelated persons.	RETN, Q26 (June 1988)
	Yes	Depends on beneficiary	(f) The transfer to a trustee is the same as a transfer to a trust.	RETN, Q6 (August 1989)
	Yes	No	(g) Spouses convey real property to trust, which is to sell the property and invest the proceeds. The spouses are beneficiaries and a nonprofit corporation is secondary beneficiary. The sales by the trust are subject to the fee.	RETN, Q18 (January 1992)



### SECTION 3. CONVEYANCES/EXEMPTIONS

EXEMPTION FROM FEE		RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
(16)	(Continued)	Yes	Yes	(h) An assignment of land contract vendee's interest to an irrevocable trust, created for the benefit of the grantor's children. The basis for the fee is the fair market value of the property. Exemption 8 cannot be used since the trust has a separate legal existence. It would also not qualify under Exemption 8 since the property is "subject to debt," consequently, Exemption 16 does not apply.	RETN, Q2 (February 1984), Tax 15.04(3), Wis. Adm. Code
(17)	<b>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.</b>	Yes	No	Since August 1, 1992, a fee is due at the time of recording original, memorandums, or amendments of land contracts. The fee is no longer deferred. If the fee for the original land contract has previously been paid, either on an amendment or on the original land contract, the transfer return should indicate type of conveyance as "other" and explain "fee paid on document #_____". See Section 4, Land Contract, #29.	Section 77.25(17), Stats.; RETNs, Q7 (June 1993), Q1 (February 1991, Q3 (IIIA & IVC), Q7 (February 1994), Q2 (November 1993), & Q12 (May 1994)
(18)	<b>To a local exposition district under subch. II of Ch. 229.</b>	Yes	No	Effective April 26, 1994, to a <b>local exposition district</b> under subch. II of Ch. 229. Section 229.41, Stats., authorizes cities, villages, towns, and counties to create local exposition districts.	Section 77.25(18), Stats.
(20)	<b><u>Transfers by a Fiduciary made under sec. 184.15.</u></b>	<u>Yes</u>	<u>No</u>	This unit of government may acquire property to be used for conventions, expositions, trade shows, etc.  <u>A transfer by fiduciary for a nonprofit association to the nonprofit association is exempt from the fee. Prior to the enactment of "The Uniform Unincorporated Nonprofit Association Act" the association could not own property in its own name.</u>	RETN, Q2 (June 1996)  <u>RETN, Q3, (June 1998)</u>

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
<b>Construction Contract</b>	Yes	No	(1) A has contracted with B, construction contractor, to build an apartment on A's land. A conveys his land to B for financing reasons. At the completion of the contract, B conveys to A the land and the building. Exemption 10 may be used.	Sections 77.25(9) and (10), Stats.; and RETN, Q14 (February 1984)
	Yes	Yes	(2) A has contracted with B, construction contractor, to build an apartment on land owned by B. B conveys land to A and simultaneously signs a construction contract with A. The basis of the real estate transfer fee is the consideration given by A to B for the land and the constructed building.  It does not matter when the construction is completed.	RETNs, Q15 (February 1984) & Q6 (November 1995)  RETN, Q5 (March 1995)
	Yes	Yes	(3) A has contracted with B, construction contractor, to build an apartment building on land owned by C. B arranges to buy the land from C for A, pursuant to the construction contract.  After the apartment building is completed, a warranty deed is presented by B for C to A. The basis for the fee is the amount of consideration given by A for the land and the constructed building.	RETNs, Q16 (February 1984) & Q18 and 19 (June 1996)
	Yes	Yes	(4) Lot sold contingent on specific builder to construct improvements. Fee calculated on entire cost of land and building.	RETN, Q4 (March 1995)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
Corporation	Yes	Yes	(5) From a corporation to another caused by a "spin-off." A spin-off occurs when, after a part of the assets of corporation A is transferred to corporation B controlled by transferor A, stock and securities in the latter B are distributed to the shareholders of the controlling corporation A, without surrender by corporation B's shareholders of any of their stock or securities.	Tax 15.03(1)(e), Wis. Adm. Code
	Yes	Yes	(6) From a corporation to another caused by a "split-up." In a split-up, the distributing corporation A transfers its assets to 2 or more newly created corporations in exchange for their stock and effects a <b>complete liquidation</b> . A's shareholders receiving stock in the new corporation in exchange for the distributing corporation's stock. Tax 15.03(1)(f), Wis. Adm. Code.	Tax 15.03(1)(g), Wis. Adm. Code; RETN Q16 (June 1993)
	Yes	Yes	(7) From one corporation to another pursuant to any bankruptcy provision. Exception—See <b>Confirmed Plan of Reorganization</b> .	Tax 15.03(1)(g), Wis. Adm. Code; RETN, Q16 (June 1993)
	Yes	No	(8) From a corporation to its sole stockholder (individual) as part of the dissolution of the corporation as long as the corporation held the property for more than three years.	Section 77.25(15), Stats.
	Yes	Yes	(9) Conveyance from a parent corporation to a subsidiary corporation in exchange for stock.	Tax 15.03(1)(h), Wis. Adm. Code
	Yes	Yes	(10) From one corporation to another, both of which are subsidiaries of the same corporation.	Tax 15.03(1)(d), Wis. Adm. Code
	Yes	Yes	(11) From a corporation to its stockholders pursuant to a <b>plan of liquidation</b> . (Exception: See Exemption 15.)	Tax 15.03(1)(c), Wis. Adm. Code

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
Corporation (Continued)	Yes	Yes	(12) Conveyances between a partnership and a corporation or a limited liability company (LLC).	Tax 15.03(1)(a), Wis. Adm. Code; Sec. 77.25(15s), Stats.
	Yes	Yes	(13) Conveyances between individuals and their wholly owned <b>corporation</b> . (Exception: See Exemption 15.)	Tax 15.03(1)(b), Wis. Adm. Code
<b>County</b>	No	No	(14) Filing a <b>tax deed</b> to a <b>county</b> . Law revised 07/01/87.	RETN, Q5 (January 1989); secs. 77.25(2) & 77.255, Stats.
	Yes/No	No	(15) Transfer from a <b>county</b> to an individual. Law revised 07/01/87.	RETNs, Q9, Q8 (November 1981, June 1988); and sec. 77.25(2), Stats.
<b>Damage Award</b>	No	No	(16) An award of damages, pursuant to <b>judgment</b> does not convey real property. Also see Q5, August 1989 Newsletter.	RETN, Q1b (June 1982)
<b>Exchange</b>	Yes	Yes	(17) In an exchange of real properties, two separate and distinct conveyances are involved and the value should be separately determined for each. Please see the following examples:	Tax 15.02(2), Wis. Adm. Code; Section 77.21(3)(b), Stats.
	Yes	Yes	(18) In an exchange of property where: (i) A conveys to B a real property having a fair market <b>value</b> of \$100,000, and	Tax 15.02(2), Wis. Adm. Code; RETN, Q7 (February 1984)
	Yes	Yes	(ii) B conveys to A real property having a fair market value of \$20,000 and B also pays A \$80,000 in cash.  The basis for the real estate transfer fee for conveyance (i) is \$100,000, and that for conveyance (ii) is \$20,000.	
	Yes	Yes	(19) Only two fees are due on a <b>three-corner exchange</b> if only two deeds are filed.	RETN, Q16 (February 1991)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
Foreclosure	Yes	Yes	(20) (a) A bank or other lender sells property purchased at a foreclosure sale to the <b>mortgage guarantor</b> in lieu of accepting a <b>deficiency payment</b> .	RETN, Q8 (May 1985); also see RETN, Q2 (January 1989)
	Yes	No	(b) When <b>guarantor V.A.</b> owns the <b>mortgage</b> and purchases the property at a <b>sheriff's sale</b> , Exemption 14 applies.	RETN, Q21 (June 1988)
	Yes	Yes	(c) A partnership (third party) purchased property, where general partner was VP of bank, <b>foreclosure</b> is subject to fee.	RETN, Q28 (June 1988)
Homestead Rights	Yes	No	(21) <b>Spouse of an incompetent</b> quit claims to the buyer of his or her property his or her homestead rights. If the full consideration is properly included on the transferor's return, the other return should state zero.	Section 77.25(13), Stats.; RETN, Q11 (February 1984)
Land Contract	Yes	Yes/No	(22) Any original land contract or any instrument evidencing the existence of a land contract, either of which indicates that such original land contract was made on October 1, 1969, or thereafter, requires the submission of a return as a condition to recording by the register of deeds. The fee is not deferred after July 31, 1992, on recording of original land contracts. Re-recording or amending preexisting land contracts will trigger a deferred fee to be due.  If this was pursuant to a <b>foreclosure</b> , Exemption 14 would apply after 10/07/85.	Sections 77.22(2)(a) & 77.25(17), Stats.; Tax 15.04(1), Wis. Adm. Code; and RETNs, Q2 (November 1993) & Q6 (February 1994)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
Land Contract, continued	Yes	Yes	(23) Any deed or other instrument executed in fulfillment of a land contract, which land contract is dated December 17, 1971, or thereafter.	Sections 77.22(2)(b) & 77.25(17), Stats.; and Tax 15.04(2)(a), Wis. Adm. Code
	Yes	No	(24) A deed in satisfaction of a land contract dated prior to December 17, 1971, is exempt per sec. 77.25(1), Stats.	RETN, (III., C.) (February 1994)
	Yes	Yes	(25) When the vendee of an original <b>land contract</b> sells back his interest to the vendor of that contract, a fee is due and the basis for that fee is the amount of <b>consideration</b> given by the original vendor, i.e., the cash given to the vendee plus the amount of the debt forgiven by the vendor. The cash payment in this case triggers the fee since it clearly removes the possibility of using Exemption 10 (sec. 77.25(10), Stats.) which may only be used in cases solely for release of debt. If this was pursuant to a foreclosure, Exemption 14 would apply after 10/07/85.	RETN, Q1 (March 1983)
	Yes	No	(26) The vendee of an original land contract quit claims his interest back to the vendor of that contract for no consideration other than being released from the obligation of all future payments under the land contract.	Sections 77.25(10) & (14), Stats.; RETN, Q3 (IIIB) (February 1994)
	Yes	No	(27) In a <b>judgment of foreclosure</b> on a <b>land contract</b> in which the original vendor of the contract is conveyed the vendee's interest in such contract where no additional consideration besides release from the land contract is received by the vendee of the original land contract.	Section 77.25(14), Stats.; RETN, Q4 (June 1982)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
<b>Land Contract</b> (Continued)	No	No	(28) Assignment of vendor's interest in a land contract. Such a transfer is not within the definition of sec. 77.21(1), Stats., because it does not provide the passage of ownership interest in real estate.	Tax 15.04(4), Wis. Adm. Code; RETNs, Q3 (November 1993) & Q3 (V., A.) (February 1994)
	Yes	Yes	(29) (a) A sale or assignment of a vendee's interest in a land contract which is dated October 1, 1969, or thereafter. This is a separate and distinct conveyance from the original land contract. If the fee was deferred on the original land contract, two fees are due; one fee on the original land contract and one fee on the sale or assignment of the vendee's interest in the land contract.	Tax 15.04(3), Wis. Adm. Code; RETNs, Q14 (June 1988), Q3 (V., B&C), & Q4 (February 1994)
	Yes	Yes	(b) A transfer fee is due on an assignment of a vendee's interest in a deferred fee original <b>land contract</b> for collateral purposes to a bank. Any amendment to a deferred original land contract triggers the fee payment. Only one transfer return and fee are due concerning the original land contract, the <b>collateral assignment</b> is not subject to a transfer return and fee.	RETN, Q5 (February 1994)
	Yes	Yes	(c) The basis of the fee on an assignment of the vendee's interest in a <b>land contract</b> is on (1) the balance owed on the contract plus (2) any amounts paid by the new vendee.	RETNs, Q3 (February 1991), Q3 (V., B&C), & Q4 (February 1994)
	No	No	(30) (a) An agency of the United States entered into a land contract in November 1973, and a warranty deed is issued in satisfaction of that contract.	Sections 77.25(2) & 77.255, Stats.; Tax 15.05(1), Wis. Adm. Code; & RETN, Q12 (February 1984)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
Land Contract (Continued)	Yes	No	(b) If the deed above was issued after the exemption to the United States was repealed (September 1987), then a return is required.	RETNs, Q8 (August 1989) & Q20 (June 1993)
	Yes	Yes	(31) A man gives his wife his total interest in a certain land contract and files with the register of deeds an assignment of that land contract.	RETNs, Q5 (February 1984) & Q5 (May 1994)
		After 9/15/96 No	There is consideration involved in the transfer; the wife is assuming the liability of the husband by paying off the <b>land contract</b> , which is consideration. [The basis of the fee is amount due under the land contract. See Exemption (8m) for conveyances after 09/15/96.]	
	Yes	Yes	(32) A <b>husband and wife</b> sold their farm to their two sons in 1980 on a <b>land contract</b> . The husband died in 1981; wife received vendor's interest by <b>survivorship</b> ; wife died in 1984, and estate passed vendor's interest to sons. Taxable event was in 1981.	RETNs, Q8 (January 1987) & Q3 (IV.B.) (February 1994)
	Yes	Yes	(33) The fee is due at the time of recording original land contracts on or after August 1, 1992.	Section 77.22(1), Stats.; RETNs, Q7 (June 1993) & Q3 (February 1994)
	Yes	Yes	(34) Vendee under land contract resold under a land contract, and one <b>deed</b> is filed in satisfaction of both land contracts. Fee is based upon both sales total. If two deeds, then fees are paid on respective documents.	RETN, Q4 (January 1992)



## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
<b>Land Contract</b> (Continued)	Yes	Yes	(35) A transfer fee is due on a deferred original land contract when there is a deed in partial satisfaction of it. The fee is due on the portion satisfied and not the total of the original land contract. (A transfer fee is triggered by filing any amendment to a deferred original land contract.)	RETNs, Q12 (May 1994), Q2 (November 1993), & Q7 (June 1993)
	Yes	Yes	(36) Where vendor and vendee interests are purchased by a third party. If the fee on the original land contract was deferred, that fee is also due.	RETN, Q7 (November 1995)
<b>Option Contract</b>	Yes	Yes	(37) Sale of real property pursuant to an <b>option contract</b> which was signed before September 1, 1981, but not exercised until June 30, 1982. The rate of the real estate transfer fee is 30¢ per \$100 of <b>value</b> conveyed. The option payment should not be added to the value subject to the fee unless specifically provided for in the contract.	RETNs, Q13 (March 1983) & Q19 (February 1991)
<b>Partnership</b>	Yes	Yes	(38) (a) <b>Conveyance</b> from an individual partner to a <b>partnership</b> . The <b>value of real estate</b> subject to real estate transfer fee is the fair market value of the real estate. (Exception: See Exemption 15(m).)	Tax 15.02(1), Wis. Adm. Code
	Yes	Yes	(b) Conveyance of real property by a person to a <b>limited partnership</b> in which he is a partner—the measure of <b>value</b> subject to the fee is the fair market value of the property conveyed. (Exception: See Exemption 15(m).)	RETN, Q5 (June 1982)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
<b>Partnership</b> (Continued)	Yes	Yes	(39) (a) Conveyances by <b>dissolution</b> of a <b>partnership</b> where partners are not related.	Tax 15.03(4), Wis. Adm. Code & RETN, Q13 (June 1993)
	Yes	Yes	(b) A <b>partnership</b> dissolves when the sole remaining partner buys out the other partner's interest in the partnership. Fee is based on the total fair market <b>value</b> of property deeded or to be deeded to the sole remaining partner. Fee is due when <b>deed</b> is filed reflecting partnership <b>dissolution</b> except in cases of family relationship. See Exemption 15.	RETNs, Q6 (January 1989) & Q10 (June 1993)
	No	No	(40) Transfer of a partner's share in a <b>partnership</b> is <b>personal property</b> except where conveyance terminates partnership.	RETN, Q4 (May 1985)
	Yes	Yes	(41) All partners transfer their total <b>partnership</b> interest in a <b>real estate</b> partnership to another partnership.	RETN, Q29 (February 1991)
<b>Quiet Title</b>	No	No	(42) An <b>action of quiet title</b> is now referred to as a <b>declaration of interest</b> in real property. This legal action clarifies property interests that are claimed to already exist, consequently such an action does not convey property interests.	RETN, Q1a, (June 1982)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
Railroad	Yes	No/Yes	(43) A deed representing a <b>railroad conveyance</b> recorded with the Secretary of State (now the Department of Financial Institutions) is not required to pay a fee if the fee was paid to a county with the original return (sec. 77.25(3), Stats.). If the original deed and return is recorded with the Department of Financial Institutions, a fee is due.	RETNs, Q19 (January 1992) & Q2 (January 1997) & sec. 190.11, Stats.
Relocation Industry	Yes	Yes	(44) If the <b>relocation company</b> records the <b>deed</b> received by it from the person relocated, a fee is due. Another fee is due when the ultimate purchaser records their deed. If only one deed is filed, the fee would be based upon the sale price to the ultimate buyer.	RETNs, Q19 (January 1987), Q17 (February 1991), & Q1 (January 1992)
Remainder Interest	Yes	Yes	(45) <b>Conveyances</b> of a <b>remainder interest</b> in real property.	Tax 15.03(8), Wis. Adm. Code
<u>Seized Property-IRS</u>	<u>Yes/No</u>	<u>Yes/No</u>	(46) <u>"IRS Certificate of Sale of Seized Property" is a document used to place a lien on property seized. If nothing has been done for 180 days to redeem the property, the IRS will give the buyer a <b>District Quit Claim Deed</b> and transfer return to record. A fee is due following the rules of a sheriff's sale.</u>	<u>RETN, Q8 (February 1998)</u>
Sheriff's Sale			(47) <b>Conveyances</b> by means of a sheriff's sale:	
	Yes	Yes	(a) Where the <b>grantee</b> is third party with no prior interest in the <b>deed</b> or <b>mortgage</b> .  Note: No exemption from Rental <b>Weatherization</b> Program administered by the Department of Commerce.	Tax 15.03(2), Wis. Adm. Code; RETNs, Q16 (March 1983) & Q2 (January 1992)
	Yes	Yes/No	(b) <b>Foreclosure</b> by U.S. Marshall is treated the same as a sheriff's sale.	RETN, Q17 (January 1992)

## SECTION 4. SPECIALIZED CONVEYANCES

SPECIALIZED CONVEYANCE	RETURN REQUIRED	FEE REQUIRED	KIND OF CONVEYANCE/COMMENT	REFERENCE
<b>Sheriff's Sale</b> (Continued)	Yes	Yes	(c) Whenever a third party is <b>the successful bidder</b> . A "third party" is defined as someone who is not holding a <b>lien</b> or <b>mortgage</b> on the property or is not the seller (vendor) of that property on a <b>land contract</b> .	RETN, Q17 (June 1993)
<b>Tax Exempt Organization</b>	Yes	Yes	(48) <b>Conveyances</b> between an individual and a <b>tax-exempt organization</b> .	Tax 15.03(5), Wis. Adm. Code & RETN, Q9 (May 1985)
	Yes	Yes	(49) <b>Church</b> or other nonprofit organizations are not exempt from the transfer fee.	RETNs, Q6 (February 1991) & Q10 (January 1989)
<b>Timber-Mineral Rights</b>	Yes	Yes	(50) <b>Conveyances of timber or mineral rights</b> .	Section 77.21(1m), Stats.; Tax 15.03(6), Wis. Adm. Code; & RETNs, Q7 (June 1988) and Q20 (January 1992).
<b>Timeshare</b>	Yes	Yes	(51) If a <b>timeshare deed</b> is recorded, showing both the specific unit and the fixed time of occupancy, a return and fee are due. If the unit is not specified the deed is subject to sales tax.	RETN, Q12 (January 1992)
	Yes	No	(52) A developer who forecloses on a <b>timeshare</b> owner is not entitled to a <b>refund</b> of fee paid on original <b>land contract</b> . The conveyance back to the developer is exempt, sec. 77.25(14), Stats.	RETN, Q4 (June 1993)

## SECTION 5. COURT CASES

### Introduction to Court Decisions

Wisconsin's real estate transfer fee law was enacted by Chapter 154, Laws of 1969, with revisions enacted most noticeably by Chapter 150, Laws of 1971, Wis. Act 27, Laws of 1983, 1985 Wis. Act 39, 1989 Wis. Act. 31, 1991 Wis. Acts 39, 202, and 269, and 1995 Acts 97, 400, and 458.

Since many states had similar statutes and many more adopted the uniform language of the model code, there is some case law. In the *CCH State Tax Reporters*, most states have a separate section entitled "Document Recording" at Paragraph 56,000. In other state's reporters, including Wisconsin's, the transfer fee section is in the "Miscellaneous" section commencing at Paragraph 32,000.

A number of cities have fees, most notably Philadelphia, Pittsburgh, and New York. The appropriate *CCH State Tax Reporter* number in the respective state reporters is Paragraph 250,000.

In *West's Reporters*, the key number is Taxation 105½. A LEXIS search may also produce some additional materials and local court decisions.

Many states have amended their transfer fee laws, particularly since 1978. As may be imagined, the emphasis has been on expanding the number and breadth of the exemptions. However, development of real property law and imaginative conveyancing have fostered some enactment's to include more transfers such as New York City's recent law to capture intangible sales such as stock sales that in reality are office building sales. The Bureau of Utility and Special Taxes monitors the trends in other states to suggest changes to the legislature to update Wisconsin's law.

The Bureau utilizes the case law as developed in other forums to generate interpretations of the law if our own courts have not addressed those issues. The Bureau adopts those interpretations that are closest to the law as has developed in Wisconsin, or, if the issue is novel, the Bureau attempts to select that interpretation that is best grounded on established principles of law.

The following pages contain selected Wisconsin decisions for your review.

## SECTION 5. COURT CASES

### **Wisconsin Department of Revenue v. Valex Limited Partnership, John R. Livesey and Bonnie M. Livesey**

District IV Court of Appeals, an unreported decision noticed at 179 Wis. 2d 503 (1993).

Supreme Court review denied.

John and Bonnie Livesey, husband and wife, formed a **limited partnership**, Valex Limited Partnership (Valex) which held only one asset, a parcel of real estate encumbered by two nonrecourse mortgages. The only partners in Valex were John as 10% general partner and 89% limited partner and Bonnie as 1% limited partner. By a marital property agreement, John gifted his interest in Valex to Bonnie. Prior to the real estate transfer, Bonnie applied for a nonrecourse mortgage, which, under the Liquidation Agreement, she used to pay off the two previous loans. Valex claimed an exemption under sec. 77.25(15), Stats., which the Department denied and assessed a transfer fee.

While the decision is an unpublished opinion, the Department policy resulting from the decision is that interspousal real estate transfers for marital property estate planning should not be subjected to the transfer fee. Therefore, as to nonspousal transfers, any conclusions reached by the Court of Appeals will not apply. There is legislative clarification regarding exempt interspousal transfers. See sec. 77.25(8m), Stats.

## SECTION 5. COURT CASES

### **Kenneth and Phyllis Krutsch v. Wisconsin Department of Revenue**

Docket No. 91-T-213-SC, Wisconsin Tax Appeals Commission, November 13, 1992.

Petition for rehearing denied December 16, 1992.

The petitioners, husband and wife, borrowed money, purchased land, and built a building. Kenneth Krutsch, M.D., created a service **corporation** with the two petitioners as sole stockholders, and the petitioners as grantors conveyed the real estate to the service corporation with an exchange of the mortgage note and real estate mortgage for a corporate mortgage and note.

The Commission upheld the Department's assessment. It held that in Wisconsin a corporation is a separate and distinct legal entity that has both advantages and disadvantages. All transfers of real estate are subject to the transfer fee imposed under sec. 77.22(1), Stats., unless specifically exempted under sec. 77.25, Stats., and as transfer of indebtedness constitutes consideration, the transfer is not exempt under sec. 77.25(15), Stats.

## SECTION 5. COURT CASES

### **Wisconsin Department of Revenue v. John Mark, et al.**

168 Wis. 2d 288 (1992), Docket Nos. 88-T-464 and 90-T-388, Wisconsin Tax Appeals Commission, February 15, 1991; Winnebago County Circuit Court, Case No. 91-CV-276, August 2, 1991.

The petitioners, five siblings, were beneficiaries of a parcel held in trust. The trust terminated and the property was deeded to the siblings as tenants-in-common. Shortly thereafter, it was determined to put the property into a partnership. The property was conveyed into a newly-formed partnership and the partnership assumed the financing obligations.

The Department assessed a fee based on Tax 15.02, Wis. Adm. Code. The fee was calculated by addressing each partner individually, and determining how much that partner's real estate interest was relinquished to the other partners. The petitioner argued that the property was exempt pursuant to sec. 77.25(15), Stats., and, in the alternative, that no fee was due under Tax 15.02, Wis. Adm. Code. The partners argued that they did not relinquish any interest because each ended up with a like interest in the partnership as was formerly held as tenants-in-common.

The Commission reversed the Department's assessments utilizing three different theories in a majority and two concurring opinions. The majority opinion held that since there was no change in beneficial interest, there was no fee under the rule. Commissioner Bartley's concurring opinion held that since there was no net change in the interest of each partner, no fee was due. Commissioner Junceau held that the rule was applicable only to individually held property. Since the property was held as an undivided interest as tenants-in-common, the undivided interest was not relinquished because it was undivided prior to its contribution. Commissioner Junceau also questioned the statutory authority for the rule as a **conveyance** to a partnership is a complete conveyance, and the rule in effect provides a partial exemption.

The Circuit Court reversed the Commission and the Court of Appeals in a published decision held there had been a conveyance for **consideration**. The decision questioned Tax 15.02, Wis. Adm. Code, and the example which taxed only a portion of the "full actual consideration." Because of this decision, Tax 15.02, Wis. Adm. Code, has been amended so the fee will always be determined upon the full consideration required under sec. 77.21(3), Stats.



## SECTION 5. COURT CASES

### **Nicholas and Gretna Wagener v. Wisconsin Department of Revenue and**

### **Four W's Limited Partnership v. Wisconsin Department of Revenue**

Docket Nos. 88-T-473-SC and 88-T-474, WTAC, March 28, 1990

This matter involved the petitioner's structuring of a series of transactions to take advantage of the IRC like-kind exchange provisions.

W wanted to buy an interest in Maritime Inn owned by S. W also wanted to dispose of a California property held in a partnership without recognizing a gain. W bought Kings Inn. S traded one-half interest in the Maritime Inn for an interest in the California partnership and a one-half interest in the Kings Inn. The latter part of the sequence was accomplished by a transfer from W to a newly-created SW joint venture. The California partnership was dissolved, thus W took the Maritime Inn interest and S took the California property.

The petitioners argued that the entire series of transactions was solely to qualify for the like-kind exchange. Further, the petitioner partnership argued that the **dissolution** was exempt because the partners were brothers and their spouses pursuant to sec. 77.25(15), Stats.

The Commission held that the transfer of Kings Inn into the joint venture was clearly taxable under Tax 15.02, Wis. Adm. Code, and the Department correctly applied the rule. (See the Mark decision for a revision of Tax 15.02, Wis. Adm. Code.)

Further, the Commission held that the transfer from a partnership to brothers and their spouses is not within the exemption language of sec. 77.25(15), Stats.

## **SECTION 5. COURT CASES**

### **Wisconsin Department of Revenue v. Virchow Krause & Co.**

Case No. 89-CV-2107, Wisconsin Circuit Court, Dane County, October 30, 1989.

The Department appealed a reversal before the Wisconsin Tax Appeals Commission to Docket No. 88-T-134, March 28, 1989.

The petitioners, certified public accountants operating as a partnership, decided to convey their office building into a separate partnership. Each of the partners maintained the same percentage partnership in the new real estate partnership as held in the accounting partnership. The Department assessed a fee based upon Tax 15.02, Wis. Adm. Code. The Commission held that since each partner had the same beneficial interest in the new real estate partnership as that partner held in the real estate, no fee was generated by the rule.

On appeal the Circuit Court held that the conveyance should be judged by the recorded title. Since the deed went from the accounting partnership directly to the real estate partnership, the rule did not apply at all. There being no exemption for partnership to partnership conveyances, the transfer was taxable at full fair market value.

## **SECTION 5. COURT CASES**

### **First Interstate Bank of Wisconsin, et al. v. Wisconsin Department of Revenue**

Docket Nos. TF-11332 through TF-11335, Wisconsin Tax Appeals Commission, November 13, 1987.

The parent bank holding company of four banking corporations desired to sell the real estate of the four subsidiaries and lease the property back. The subsidiaries with sufficient retained earnings paid a dividend to the parent of the real estate at book value. The subsidiaries with insufficient retained earnings sold the real estate to the parent at book value.

The first issue presented was whether the dividend conveyances were subject to the fee as conveyances for consideration. The Commission held that the dividends were bargained for in exchange for the capital contributions made by any investor. While the board is vested with discretion, shareholders may sue to force payment of dividends when the corporation profit warrants them.

The second issue was whether the book value series were subject to the fee. The taxpayer argued that the parent's board directed the conveyances so there was no benefit and consideration to the subsidiaries.

The Commission disagreed, citing the banking regulations mandating the sales in the absence of retained earnings. The regulations required that the capital structure must be kept intact, thus the subsidiaries had to be compensated for the real estate, therefore consideration did exist.

It may be noted that the assessments were levied at the "book value" consideration, although the subsequent sale-leaseback indicated a substantially greater fair market value.

## SECTION 5. COURT CASES

### Harrison Farms, Inc. v. Wisconsin Department of Revenue

Case No. 88-CV-149, Chippewa County Circuit Court, July 27, 1988

The Wayne Harrison family and the Elwood Harrison family decided to divide their ownership of Harrison Farms, Inc. A new corporation, E&L Harrison Enterprises, Inc., was created as a wholly-owned subsidiary of Harrison Farms, Inc. Real estate was transferred to sub and then through exchange of stock, the Elwood Harrison family were stockholders of E&L Harrison Enterprises, Inc., and the Wayne Harrison family were the stockholders of Harrison Farms, Inc. The taxpayers claimed the transfer into the sub was a **partition exemption** under sec. 77.25(5), Stats.; an exempt transfer pursuant to corporate merger under sec. 77.25(6), Stats. or exempt under sec. 77.25(7), Stats., which exempts transfers from sub to parent.

The Circuit Court in affirming the Tax Appeals Commission held:

1. This was not a partition exempt under sec. 77.25(5), Stats. Although the end resulted in the land divided between two families, title to the land was not partitioned. Harrison Farms, Inc. transferred part of the real estate to E&L Harrison Enterprises, Inc., which held no prior interest in the real estate.
2. The transfer is not exempt as a corporate merger under exemption of sec. 77.25(6), Stats., as this was not a merger but was a transfer from parent to sub.
3. The transfer was not exempt (under exemption of sec. 77.25(7), Stats., as a transfer from sub to parent) as it was a transfer from parent to sub. Exempting transfers from sub to parent but not from parent to sub is not a violation of the equal protection clause. (See *Gottfried, Inc.* reported in these *Guidelines*). The legislature may tax some transactions and not others if there is a rational basis for the tax or exemption. Harrison Farms, Inc., has the burden of showing no rational basis exists and that burden has not been met.

## SECTION 5. COURT CASES

### **Gottfried, Inc. v. Wisconsin Department of Revenue**

145 Wis. 2d 715, Court of Appeals, 429 NW2d 508 (1988).

Gottfried, Inc., dissolved and as trustee administered the **dissolution** and transferred the real estate to the sole shareholder, Jerome Gottfried.

In the process of corporate liquidations, the transfer from the corporation to a trustee is not a taxable transfer as the dissolution, by operation of law, establishes the corporate directors as trustees for the benefit of the corporation's creditors. When Gottfried, Inc., assumed the status of trustee in liquidation, no instruments passing real estate ownership were drawn, registered, or recorded. A taxing statute must clearly apply with doubts resolved in favor of the taxpayer.

However, when Gottfried, Inc., trustee, transferred the real property to the sole stockholder, Jerome Gottfried, a transfer fee did apply. To receive an exemption, the taxpayer must show that the exact terms of the exemption are met. Exemption statutes, unlike taxing statutes, are construed against the taxpayer, who must bring himself or herself clearly within the terms of the exemption.

## SECTION 5. COURT CASES

### **Heritage Place, Ltd. Partnership v. Wisconsin Department of Revenue**

Docket No. 92-T-400, Wisconsin Tax Appeals Commission, October 5, 1995; Docket No. 95-CV-2292, Judge Patrick Snyder, Waukesha Circuit Court, April 15, 1996. Court of Appeals summarily affirmed Circuit Court on April 23, 1997.

Heritage Place **Limited Partnership** quit claimed its real estate to Heritage Place General Partnership. The deed stated: "This will clarify the correct name of the owner, and to show that Heritage Place Limited Partnership has changed its name to Heritage Place General Partnership and that Heritage Place General Partnership is now owner of the property." All partners remain the same with the same percentage of ownership.

Petitioner-appellant contended this was not a transfer or a correction of deed exempt under sec. 77.25(3), Stats.

The Circuit Court in affirming the Tax Appeals Commission decision held:

1. Section 77.22(1), Stats., imposes a fee on every conveyance not exempted.
2. Section 77.21(2), Stats., provides a conveyance includes deed and other instruments for passing real estate ownership.
3. The deed states the general partnership is now the owner, which is not a **correction deed** exempt under sec. 77.25(3), Stats., as it does not confirm, correct, or reform a conveyance previously recorded but creates a new owner grantee.
4. Nontaxability of this conveyance for income tax has no merit as this case deals with real estate and partnership law, not income tax law.
5. Each partnership is a separate entity regardless of the fact that the partners in the limited partnership and the general partnership are the same.
6. Section 77.26(8), Stats., provides the Department shall assess and collect a penalty if an exemption was improperly claimed. As the fee exemption was improperly claimed, the penalty was properly imposed.

## **SECTION 5. COURT CASES**

### **Dale Schuler, Roy Schuler v. Wisconsin Department of Revenue**

Docket No. 95-T-1192, Wisconsin Tax Appeals Commission, March 13, 1996

Schuler Dairy Farms, a partnership of Dale and Roy Schuler, brothers and their spouses, conveyed by quit claim deed the real estate to Schuler Dairy Farms, Inc., a Wisconsin corporation. The sole **consideration** was stock. The Commission upheld the Department's position that the conveyance was subject to the transfer fee because it went directly from a partnership to a corporation which does not come within the exemption parameters of sec. 77.25(15), Stats.

Even with broader exemption provisions of sec. 77.25(15), Stats., a conveyance from a partnership to a corporation results in a fee. Exemptions must be strictly construed. Therefore, form over substance controls. Being brothers, the present statutory exemptions would permit conveyance of the partnership with the two brothers and their spouses terminating the partnership and the individuals, being within the exempt class, could then convey into the corporation. The use of two conveyances would result in no fee.

## **SECTION 5. COURT CASES**

### **Joel S. Lee and Sentry Building Company v. Wisconsin Department of Revenue**

Decision of Tax Appeals Commission (Docket 96-T-657) of October 17, 1997.

Decision of Milwaukee County Circuit Court (Case 97-CV-009288) of June 2, 1998.

Joel Lee and Richard Fisher, unrelated individuals, were equal partners in Sentry Building company. Sentry owned the "Sentry Builder, and the two as tenants in common owned the adjacent building known as the Highway 100 Building. There were disputes over management and each offered to buy the others interest. On April 9, 1983, Lee commenced action in Milwaukee county Circuit Court (Case 93-CV-0048) seeking the sale of the buildings in lieu of partition. Negotiations were also ongoing. On March 17, 1993, Lee obtained a title commitment for the transfer of the Sentry Building to him and on April 23, 1993, the two entered into a Trade Agreement and the two plus Sentry quit claimed the Sentry Building to Lee. On August 25, 1993, per the Stipulation of Lee, Fisher and Sentry, the Circuit Court signed an order of partition so Lee became sole owner of the Sentry Building and Fisher became sole owner of the Highway 100 Building.

#### TAC Decision

The quit claim deed passing ownership of the Sentry Building to Joel Lee as a conveyance under sec. 77.21, Stats., which was not exempt under sec. 77.25(5) or (15m). The transfer fee is based on the full value of the Sentry Building at the time of the conveyance. There was a detailed analysis of each aspect of the docket.

#### Circuit Court

The quit claim deed passing the ownership from Sentry to Joel Lee was a conveyance. As Lee and Fisher are not related, the conveyance could not be exempt under sec. 77.25(15m). As the petitioners could not substantiate the lower value reported on the transfer return, they did not rebut the estimated fair market value used by the Department of Revenue.



## **SECTION 5. COURT CASES**

### **Otto Wolter, et al v. Wisconsin Department of Revenue**

Decision of Tax Appeals Commission (Docket 96-T-941) of May 6, 1998. (On appeal.)

Several children of John Wolter were partners in Wolter Investment company Limited Partnership, a Wisconsin limited partnership. The partnership was reorganized into an LLC consisting of the same persons. To give notice of the reorganization of the petitioner prepared and recorded with the Waukesha Register of Deeds a "Memorandum of Organizational and Operating Agreement." No cash consideration was involved.

#### TAC Decision

The recorded agreement was a conveyance within the meaning of sec. 77.21(1), Stats., because the ownership passed from a partnership to an LLC. Both the partnership and LLC are separate legal entities under Wisconsin law which do not possess the familial provision of exemptions sec. 77.25(15m) or (15s), Stats.

The decision did, however, find that as no real estate transfer fee return was filed, no penalty could be imposed under sec. 77.26(8), Stats., which imposes a penalty when the return understates the value or improperly claims an exemption.

## SECTION 6. EFFECTIVE/AMENDED DATES OF STATUTORY CHANGES

Exemption	Date Effective*	Wisconsin Ch. or Act	Dates Amended	Wisconsin Ch. or Act	Changes
(1)	10-1-69	Ch. 154			Prior to effective date of this subchapter. (10-1-69) (1969 session)
(2)	10-1-69	Ch. 154			To the United States or to this state or to any instrumentality, agency, or subdivision of either.
			9-1-87	Act 27	Amended to read: <u>From</u> the United States or from this state or from any instrumentality, agency or subdivision of either. All governmental conveyances require a transfer return as of 9-1-87. (1987 session)
(2g)	1-1-92	Act 39			By gift, to the United States or to this or to any instrumentality, agency or subdivision of either. (1991 session)
(2r)	1-1-92	Act 39			Under sec. 236.29(1) or (2) or 236.34(1)(e), Stats., or for the purpose of a road, street or highway, to the United States or this state or to any instrumentality, agency or subdivision of either (1991).
(3)	10-1-69	Ch. 154			Which confirms, corrects, or reforms a conveyance previously recorded. (1969 session)
			12-17-71	Ch. 150	Amended to read: Which, executed for nominal, inadequate or no consideration, confirms, corrects, or reforms a conveyance previously recorded (1971 session).
(4)	10-1-69	Ch. 154			On sale for delinquent taxes or assessments. (1969 session)
(5)	10-1-69	Ch. 154			On partition. (1969 session)
(6)	10-1-69	Ch. 154			Pursuant to mergers of corporations. (1969 session)
			1-1-94	Act 112	The definition of mergers was amended in sec. 77.21(1e), Stats., to read: "Mergers of Corporations" means the combination of 2 or more corporations under a plan of merger or a plan of consolidation or the combination of 2 or more limited liability companies under a plan of merger.

\*For conveyances on or after effective date unless noted otherwise.

## SECTION 6. EFFECTIVE/AMENDED DATES OF STATUTORY CHANGES

Exemption	Date Effective*	Wisconsin Ch. or Act	Dates Amended	Wisconsin Ch. or Act	Changes
(7)	10-1-69	Ch. 154			By a subsidiary corporation to its parent for no consideration, nominal consideration, or in sole consideration of cancellation, surrender, or transfer of capital stock between a parent and sub corporation. (1969 session)
(8)	10-1-69	Ch. 154			Between a husband and wife, or parent and child for nominal or no consideration. (1969 session)
			10-31-85	Act 39	Amended to read: Between husband and wife, parent and child, stepparent and stepchild, parent and son-in-law or parent and daughter-in-law for nominal or no consideration. (1985 session)
			9-1-96	Act 458	Amended to read: Between parent and child;, stepparent and stepchild, parent and son-in-law or parent and daughter-in-law for nominal or no consideration. (1995 session)
(8m)	9-1-96	Act 458			Between husband and wife.
(9)	10-1-69	Ch. 154			Between agent and principal or trustee and beneficiary without actual consideration. (1969 session)
			10-31-85	Act 39	Amended to read: Between agent and principal or from a trustee to a beneficiary without actual consideration. (1985 session)
(10)	10-1-69	Ch. 154			Solely in order to provide or release security for a debt or obligation. (1969 session)
			12-17-71	Ch. 150	Amended to read: Solely in order to provide or release security for a debt or obligation except as required by Section 77.22(2)(b). (1971 session)
			8-1-92*	Act 269	Amended to read: Solely in order to provide or release security for a debt or obligation. (1991 session)
(11)	10-1-69	Ch. 154			By will, descent or survivorship. (1969 session)
(12)	10-1-69	Ch. 154			Pursuant to or in lieu of condemnation. (1969 session)

\*For conveyances on or after effective date unless noted otherwise.

## SECTION 6. EFFECTIVE/AMENDED DATES OF STATUTORY CHANGES

Exemption	Date Effective*	Wisconsin Ch. or Act	Dates Amended	Wisconsin Ch. or Act	Changes
(13)	10-1-69	Ch. 154			Of real estate having a value of \$100 or less. (1969 session)
(14)	10-1-69	Ch. 154			In confirmation of a recorded land contract upon which the fee herein has previously been paid. (1969 session)
			12-17-71	Ch. 150	Section 77.25(14), Stats., is repealed. (1971 session)
	10-31-85	Act 39			Under a foreclosure or a deed in lieu of foreclosure to a person holding a mortgage or to a seller under a land contract. (1985 session)
(15)	10-31-85	Act 39			Between a corporation or partnership and its shareholders or partners if all the stock is owned by or all the partners are spouses or lineal ascendants or descendants of each other, if the transfer is for no consideration except stock of the corporation or an interest in the partnership and if, in the case of transfers from corporations, the corporation owned the property for at least three years. (1985 session)
			7-1-92	Act 202	Amended to read: Between a corporation and its shareholders if all of the stock is owned by spouses or lineal descendants of each other, if the transfer is for no consideration except for stock in the corporation and if the corporation owned the property for at least three years. (1991 session)
			4-29-94	Act 307	Amended to read: Between a corporation and its stockholders if all the stock is owned by persons who are related to each other as spouses, lineal ascendants, lineal descendants, <u>siblings or spouses of siblings</u> , if the transfer is for no consideration except <u>for the assumption</u> of debt or stock of the corporation and if the corporation owned the property for at least three years. (1993 session)
(15m)	7-1-92	Act 202			Between a partnership and one or more of its partners if all of the partners are related to each other as spouses, lineal ascendants, lineal descendants, siblings, or spouses of siblings, and if the transfer is for no consideration other than the assumption of debt or an interest in the partnership. (1991 session)

\*For conveyances on or after effective date unless noted otherwise.

## SECTION 6. EFFECTIVE/AMENDED DATES OF STATUTORY CHANGES

Exemption	Date Effective*	Wisconsin Ch. or Act	Dates Amended	Wisconsin Ch. or Act	Changes
(15s)	1-1-94	Act 112			Between a limited liability company and one or more of its members if all of the members are related to each other as spouses, lineal ascendants, lineal descendants, siblings or spouses of siblings, and if the transfer is for no consideration other than the assumption of debt or an interest in the limited liability company. (1993 session)
(16)	10-31-85	Act 39			To a trust if a transfer from the grantor to the beneficiary of the trust would be exempt under this section. (1985 session)
(17)	8-1-92*	Act 269			Of a deed executed in fulfillment of a land contract if the proper fee was paid when the land contract or instrument evidencing a land contract was recorded. (1991 session)  Note: the transfer fee is no longer deferred. It is due at the time of recording original and memorandums of land contracts.
(18)	4-26-94	Act 263			To a local exposition district under subch. II of Ch. 229. (1993 session)
<u>(20)</u>	<u>5-5-98</u>	<u>Act 140</u>			<u>Made under s. 184.15.</u>  <u>184.15 Transfers by a fiduciary. If before May 5, 1998, the transfer vested the estate or interest in another person to hold the estate or interest as a fiduciary for the benefit of the nonprofit association or its members or both, on or after May 5, 1998, the fiduciary may transfer the estate or interest to the nonprofit association in its name, or the nonprofit association, by appropriate proceedings, may require that the estate or interest be transferred to the nonprofit association in its name.</u>  <u>184.15 - ANNOT.</u>  <u>History: 1997 a.140.</u>

\*For conveyances on or after effective date unless noted otherwise.

## SECTION 6. EFFECTIVE/AMENDED DATES OF STATUTORY CHANGES

### Wisconsin Transfer Fee & Related Acts

<u>Year</u>	<u>Act</u>	<u>Description</u>
1969	Ch. 154	Creation of Ch. 77 - Sections 77.25(1) to (14), Stats.
1971	Ch. 150	Amendments to Ch. 77 - definitions, procedures, land contacts, and repealed sec. 77.25(14), amended 77.25(3) & (10), and created 77.22(2)(b), Stats.
1975	Ch. 338	Amended sec. 77.23, Stats. - dispositions of fees and returns, returns are privileged information.
1975	Ch. 421	Amended sec. 77.23, Stats. - grammar changes.
1977	Ch. 29	Amended secs. 77.22(1) and 77.24, Stats. - grammar changes, vetoed in part.
1979	Ch. 153	Amended sec. 77.23 and created 77.23(2), Stats., relating to the availability of real estate sale information used to determine property valuations.
1981		Creation of Administrative Rules, Chapter Tax 15.
1981	Ch. 20	Amended sec. 77.21(1), Stats. - completed transfer return required; amended secs 77.22 and 77.24, Stats.—fee now \$3.00 per \$1,000, and repealed sec. 77.26, Stats.
1983	Act 27	Creation of sec. 77.26, Stats. - Powers of Investigation of Department of Revenue.
1983	Act 455	Created sec. 706.01(7m) & (8m) and created sec. 706.057, Stats. - minerals are a fee simple interest.
1985	Act 39	Amended sec. 77.25(8) and (9), Stats., created secs. 77.25(14) to (16), Stats., and repealed sec. 77.28, Stats.
1985	Act 54	Amended sec. 77.21(1), Stats., to require the financing terms for agricultural land to be disclosed on return.
1985	Act 174	Renumbered sec. 77.22 to 77.22(1)(a), Stats., and created sec. 77.22(1)(b), amended secs. 77.23(2), 101.122(6) & (7), and 706.05(12), Stats.
1985	Act 332	Amended sec. 77.22(1)(a), Stats., and creates sec. 77.22(1)(b)4m, Stats., for agricultural financing terms to be disclosed.
1987	Act 27	Amended secs. 77.22(1)(a), 77.25(2) replacing “to” with “from” and sec. 77.255, Stats.
1989	Act 31	Created sec. 77.21(1m), Stats., to define “real estate” and amended sec. 77.21(1)(a), Stats.
1989	Act 339	Amended sec. 59.57, Stats., recording fees charged by the Register of Deeds.

## SECTION 6. EFFECTIVE/AMENDED DATES OF STATUTORY CHANGES

<u>Year</u>	<u>Act</u>	<u>Description</u>
1991	Act 39	Created sec. 77.21(1e), Stats., to define mergers of corporations; sec. 77.21(1k), Stats., to define partition; secs. 77.25(2g), (2r), and 190.11(4), Stats., amended 77.255, Stats.
1991	Act 133	Register of Deeds procedures.
1991	Act 202	Amended sec. 77.25(15), Stats., to be for corporations only and created sec. 77.25(15m), Stats., for partnerships.
1991	Act 269	Renumbered sec. 77.21(1), Stats., to 77.22, and amended sec. 77.22(1), Stats., “in regards to land contracts,” sec. 77.25(10), Stats., and created sec. 77.25(17), Stats.
1991	Act 316	Amended secs. 77.29 and 77.30, Stats.—grammar changes.
1993	Act 112	Amended sec. 76.39(1)(bg), Stats., and the definition under sec. 77.21(1e), Stats., to include mergers of limited liability companies, and created sec. 77.25(15s), Stats.
1993	Act 205	Amended sec. 180.1407(3), Stats., that a transfer fee assessment not subject to two year limitation of corporation dissolution.
1993	Act 263	Creation of sec. 77.25(18), Stats., for conveyances to a local exposition district.
1993	Act 301	Amended sec. 77.73(2), Stats.—returns filed under this subchapter are considered privileged information.
1993	Act 307	Amended sec. 77.22(1), Stats., to require the value be disclosed on all returns; and sec. 77.27(15), Stats., to allow for siblings and the assumption of debt.
1993	Act 412	Amended sec. 77.23, Stats., and created sec. 77.265, Stats.—Transfer fee return confidentiality.
1995	Act 27	Amended secs. 77.22(2), 77.23, and 77.265(4), Stats.
1995	Act 97	Created sec. 178.40, Stats., for the organization of limited liability partnerships.
1995	Act 400	Amended sec. 183.0201, Stats., to allow “one or more persons” to organize a limited liability company.
1995	Act 458	Amended sec. 77.25(8), Stats.; created sec. 77.25(8m), Stats., for conveyances between husband and wife.
<u>1997</u>	<u>Act 140</u>	<u>Created sec. 77.25(20), Stats., for conveyances from a fiduciary to a nonprofit organization. A fiduciary is someone who is holding title for the benefit of the nonprofit organization.</u>

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