



# County Technical Assistance Service

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## Transfer Tax

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Transfer Tax

**Reference Number:** CTAS-798

The transfer tax is a tax on the privilege of having an instrument recorded where the instrument transfers a freehold interest in real estate, whether by deed, court decree, partition deed or any other instrument. The grantee must pay the tax on the value of the property or the consideration given, whichever is greater, unless the transfer is by quitclaim, whereupon the grantee pays on the basis of the actual consideration for the transfer. The value of the property means the market value or what the property would bring at a fair and voluntary sale.

The rate of the transfer tax is thirty-seven cents (37¢) per one hundred dollars (\$100.00) of value or consideration.

Certain transactions listed in T.C.A. § 67-4-409 are exempt from the transfer tax. No transfer tax is due on the transfer of any real estate which is:

1. A leasehold estate (estate for a fixed number of years);
2. The creation or dissolution of a tenancy by the entirety:
  - a.) By the conveyance from one (1) spouse to the other;
  - b.) By the conveyance from one (1) spouse or both spouses to the original grantor or grantors in the instrument and the original grantor's spouse; or
  - c.) By the conveyance from one (1) spouse or both spouses to a trustee and immediate reconveyance by the trustee in the same instrument as tenants in common, tenants in common with right of survivorship, joint tenants or joint tenants with right of survivorship;
3. A deed of division in kind of realty formerly held by tenants in common;
4. A release of a life estate to the beneficiaries of the remainder interest;
5. A deed or deeds executed by an executor to implement a testamentary devise;
6. A domestic settlement decree and/or domestic decrees and/or deeds which are an adjustment of property rights between divorcing parties;
7. A transfer by a transferor of real estate to a revocable living trust created by the same transferor or by a spouse of the transferor, or transfers by the trustee of a revocable living trust back to the same transferor or to the transferor's spouse; or
8. A deed executed by the trustee of a revocable living trust to implement a testamentary devise by the trustor of the trust.

No transfer tax is due until the title to the property is transferred by deed.

The grantee, his agent, or a trustee acting for the grantee is required to state under oath upon the face of the instrument offered for record in the presence of the register, or before an officer authorized to administer oaths, the actual consideration or value, whichever is greater, for the transfer of a freehold estate, except that no oath of value is required in any transaction which is exempt, and in the case of the quitclaim deed, the oath must reflect the actual consideration given for that conveyance. Consideration reflects anything of pecuniary value and need not be money, but its value must be able to be expressed in monetary terms. The Department of Revenue has promulgated rules for the valuation of a life estate and remainder interest based on life expectancy. These should be consulted where deeds convey these interests. Knowingly making a false affidavit is perjury (T.C.A. § 39-16-702), and if the register knows this has been done, it should be reported to the District Attorney General and to the Department of Revenue.

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