

EXEMPTION CODE GUIDE – EFFECTIVE JULY 1, 2016

DEEDS

❖ **DEED OF GIFT**

No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

Exempt from Grantor & Grantee Tax
§ 58.1-811 (D)

❖ **REVOCABLE TRUST**

To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust

Exempt from Grantee Tax - **§ 58.1-811 (A)(12)**
Exempt from Grantor Tax - **§ 58.1-811 (C)(1)**
Both sections must be referenced

❖ **TRANSFER UPON DEATH DEED**

No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

§ 58.1-811 (J)
If there is a consideration,
tax is based on consideration

❖ **DEED OF CONFIRMATION**

A deed of confirmation

Exempt from Grantor & Grantee Tax
§ 58.1-810(1)

❖ **DEED PURSUANT TO A DIVORCE OR SEPARATION**

When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation

Exempt from Grantee Tax - **§ 58.1-811 (A)(16)**
Exempt from Grantor Tax - **§ 58.1-811 (C)(1)**
Both sections must be referenced

❖ **DEED BETWEEN SPOUSES**

A deed to which a husband and wife are the only parties

Exempt from Grantor & Grantee Tax
§ 58.1-810(3)

❖ **DEED OF CORRECTION**

A deed of correction

Exempt from Grantor & Grantee Tax
§ 58.1-810(2)

❖ **DEED OF PARTITION**

When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners

Exempt from Grantee Tax - **§ 58.1-811 (A)(15)**
Exempt from Grantor Tax - **§ 58.1-811 (C)(1)**
Both sections must be referenced
\$1.75 transfer fee pursuant to § 58.1-3314

❖ **DEED OF ASSUMPTION, ASSUMPTION AGREEMENT**

The assumption of a deed of trust shall not be separately taxable under § 58.1-801, 58.1-803 or 58.1-807, whether such assumption is by a separate instrument or included in the deed of conveyance.

§ 58.1-809

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❖ **GOVERNMENT**

- **GRANTEE** - To the United States, the Commonwealth, or to any county, city, town, district or other political subdivision of the Commonwealth
Exempt from Grantee Tax - **§ 58.1-811 (A)(3)**
Grantor is taxed unless another exemption is used
- **GRANTOR** - Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district or other political subdivision thereof
Exempt from Grantor Tax - **§ 58.1-811 (C)(4)**
Grantee is taxed unless another exemption is used
- **GRANTEE** - Conveyance of real estate to the Commonwealth or any county, city, town, district or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802
Exempt from Grantor Tax also, if under **§ 58.1-811 (C)(5)**
- **LEASES** - The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district or other political subdivision of the Commonwealth
§58.1-811 (E)

❖ **DEED ARISING OUT OF A CONTRACT**

A deed arising out of a contract to purchase real estate; if the tax already paid is less than a proper tax based upon the full amount of consideration or actual value of the property involved in the transaction, an additional tax shall be paid based on the difference between the full amount of such consideration or actual value and the amount on which the tax has been paid
Exempt from Grantor & Grantee Tax, unless additional tax needs to be paid **§ 58.1-810(4)**

❖ **PERSONAL REPRESENTATIVE OR TRUSTEE –TRANSFER BASED ON WILL OR TRUST**

When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument
Exempt from Grantee Tax **§ 58.1-811 (A)(13)**
Exempt from Grantor Tax **§ 58.1-811 (C)(1)**
Both sections must be referenced

❖ **RELEASE OF A CONTRACTUAL RIGHT**

No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax
§ 58.1-811 (H)

❖ **HOSPITALS**

- **GRANTEE** - To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit
Exempt from Grantee Tax - **§ 58.1-811 (A)(5)**
Grantor is taxed unless another exemption is used

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❖ **SCHOOLS**

- **GRANTEE** - To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;
- **GRANTOR** - Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

Exempt from Grantee Tax - **§ 58.1-811 (A)(1)**
Grantor is taxed unless another exemption is used

Exempt from Grantor Tax - **§ 58.1-811 (C)(3)**
Grantee is taxed unless another exemption is used

❖ **CHURCHES**

- **GRANTEE** - To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body
- **GRANTOR** - Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

Exempt from Grantee Tax - **§ 58.1-811 (A)(2)**
Grantor is taxed unless another exemption is used

Exempt from Grantor Tax - **§ 58.1-811 (C)(6)**
Grantee is taxed unless another exemption is used

❖ **DAUGHTERS OF THE CONFEDERACY**

To the Virginia Division of the United Daughters of the Confederacy

Exempt from Grantee Tax - **§ 58.1-811 (A)(4)**
Grantor is taxed unless another exemption is used

❖ **NON-PROFIT SELLING LOW INCOME HOMES (EX. HABIT FOR HUMANITY)**

When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means.

Exempt from Grantee Tax
§ 58.1-811 (A)(14)
Grantor is exempt under IRS code

❖ **THE NATURE CONSERVANCY**

The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural or open space areas.

§ 58.1-811 (F)

❖ **PUBLIC PRIVATE TRANSPORTATION ACT OF 1995**

No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law

§ 58.1-811 (I)

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❖ **CORPORATIONS, LLCs, ETC –**

<ul style="list-style-type: none">• To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance	Exempt from Grantee Tax - § 58.1-811 (A)(6) Exempt from Grantor Tax - § 58.1-811 (C)(1) Both sections must be referenced
<ul style="list-style-type: none">• From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;	Exempt from Grantee Tax - § 58.1-811 (A)(7) Exempt from Grantor Tax - § 58.1-811 (C)(1) Both sections must be referenced
<ul style="list-style-type: none">• To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;	Exempt from Grantee Tax - § 58.1-811 (A)(8) Exempt from Grantor Tax - § 58.1-811 (C)(1) Both sections must be referenced
<ul style="list-style-type: none">• To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended	Exempt from Grantee Tax - § 58.1-811 (A)(9) Exempt from Grantor Tax - § 58.1-811 (C)(1) Both sections must be referenced
<ul style="list-style-type: none">• To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company; provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes	Exempt from Grantee Tax - § 58.1-811 (A)(10) Exempt from Grantor Tax - § 58.1-811 (C)(1) Both sections must be referenced
<ul style="list-style-type: none">• From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company; provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes	Exempt from Grantee Tax - § 58.1-811 (A)(11) Exempt from Grantor Tax - § 58.1-811 (C)(1) Both sections must be referenced

DEEDS OF TRUST

❖ MODIFICATIONS, SUPPLEMENTAL, AMENDMENTS, ETC

- Modifications, Supplemental, Amendments, etc, On deeds of trust, mortgages, or other instruments that are supplemental to, wrap around, or modify the terms of an existing deed of trust or mortgage (increase the amount of the principal obligation secured) **§58.1-803(D)**
- Modifications, Supplemental, Amendments, etc, when the sole purpose and effect of the supplemental instrument is to wrap around a prior instrument, to convey property, in addition to or in substitution, in whole or in part, of the property conveyed in a prior instrument, to secure or to better secure the payment of the amount contracted for in a prior instrument, to alter the priority of a prior instrument, or to modify the terms, conditions, parties, or provisions of a prior instrument, other than to increase the amount of the principal obligation secured thereby. **§58.1-809**

❖ REFINANCES

- Refinancing of an existing debt **§58.1-803(E)**

❖ CONSTRUCTION TO PERMANENT

The tax provided by § 58.1-803 shall not be imposed upon a permanent loan deed of trust or mortgage, as defined herein, if such deed of trust or mortgage is recorded within three years of the date of the recordation of the construction loan deed of trust or mortgage, as defined herein, and the tax on the construction loan deed of trust or mortgage has been paid. However, if the permanent loan deed of trust or mortgage, as defined herein, secures an instrument, the principal amount of which is more than the construction loan deed of trust or mortgage, the tax shall be imposed and calculated on the additional amount. Such permanent loan deed of trust or mortgage shall contain a reference to the construction loan deed of trust or mortgage and the book and page where recorded. **§58.1-804(C),**
must be recorded within 3 years of
construction loan, tax would be
collected on difference if amount
increased

❖ CHURCHES

Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1 **§58.1-811 (B)(2)**

❖ GOVERNMENT

Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision **§58.1-811 (B)(4)**

❖ HOSPITAL

Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit; **§58.1-811 (B)(3)**

❖ COLLEGES/SCHOOLS

Given by an incorporated college or other incorporated institution of learning not conducted for profit; **§58.1-811 (B)(1)**

❖ LENDER IS LOCALITY/GOVERNMENT

Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home. **§58.1-811 (B)(6)**