

Title 28A REVENUE AND TAXATION

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28A.45.010 TAX IMPOSED ON SALES OF REAL PROPERTY.

There is hereby levied and there shall be collected by the Treasurer on each sale of any real property situated in WAHAKIYAKUM County a tax equal to one percent of the selling price. Each year, prior to the first day of May thereof, the Board of Wahkiakum County Commissioners shall review the tax rate levied under this section. Subsequent to such review, the Board shall by Resolution fix the tax rate for the ensuing year, PROVIDED, that in no event shall said tax rate exceed one percent of the selling price.

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28A.45.020 DEFINITIONS.

- (a) As used in this Ordinance, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of forfeiture of the vendee's interest in a contract of sale where no consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree, any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage, a conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this ordinance has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

The term sale shall not include a transfer to a corporation which is wholly owned by the transferor, his spouse or his children: PROVIDED, That if such transferee corporation or such transferor, his spouse, or his children voluntarily transfer the property or the stock, as the case may be, within five years of the exchange, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

- (b) As used in this Ordinance, the term "seller", unless otherwise indicated by the context, shall mean any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the State of Washington.
- (c) As used in this Ordinance, the term "selling price" means the consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale.

The term shall not include the amount of any outstanding lien or incumbrance in favor of the United States, the state or a municipal corporation for the taxes, special benefits, or improvements.

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28A.45.030 TAX IS LIEN ON PROPERTY—ENFORCEMENT.

Any tax levied pursuant to Section 1 of this Ordinance and any interest or penalties thereon shall be a specific lien upon each piece of real property sold from the time of sale until the tax shall have been paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages.

28A.45.040 TAX IS SELLER'S OBLIGATION—CHOICE OF REMEDIES.

The tax levied under this Ordinance shall be the obligation of the seller and the Wahkiakum County Treasurer may, at his option, enforce the obligation through an action of debt against the seller or he may proceed in the manner prescribed for the foreclosure of mortgages and resort to one course of enforcement shall not be an election not to pursue the other.

28A.45.050 TAX PAYABLE TO TREASURER—STAMPS—RECORDING.

The tax imposed by this Ordinance shall be paid to and collected by the Wahkiakum County Treasurer who shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording. A receipt issued by the Treasurer for the payment of the tax imposed under this Ordinance shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfaction of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax imposed by this Ordinance shall be accepted by the Wahkiakum County Auditor for filing or recording until the tax shall have been paid and the stamp affixed thereto, in the case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of such fact has been made on the instrument by the Treasurer.

28A.45.060 SELLER'S AFFIDAVIT REQUIRED.

It shall be the duty of the seller, within thirty days after the date of sale, to furnish the Wahkiakum County Treasurer, in quadruplicate, on forms to be supplied by the Treasurer, an affidavit containing the full name and address of the seller, the full name and address of the purchaser, the description of the real property involved, the date of sale or other transfer, the nature of the transfer, and the sale price, which affidavit shall be subscribed and sworn to by the seller, buyer, or the agent of either, before a notary public, the Treasurer, or his authorized deputy, PROVIDED, that where the transaction involves the exchange in whole or in part of any real property or any estate or interest therein or any contract right thereto, for any other real property or estate or interest therein or contract right thereto, there shall be filed by or on behalf of each grantor the above affidavit, which said affidavit shall state the fair market value of the property so exchanged, and a tax shall be levied and collected as to each transfer, PROVIDED FURTHER, that if the Washington State Department of Revenue, requires reports contrary with or in addition to the requirement imposed by this section, the requirements of the said Department shall supersede the requirements of this section to that extent.

28A.45.070 ASCERTAINMENT OF TAX—SPECIAL CASES.

In the case of any sale, where the selling price is not separately stated or ascertainable at the time of sale, including leases with option to purchase, rules of the Washington State Department of Revenue relating to ascertainment of the tax and security for payment of the tax shall be administered by appropriate officials.

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28A.45.080 CONDITIONAL SALES OF MINING PROPERTY—RULES.

A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the lease and option at any time, shall be taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract, PROVIDED, that pursuant to the rules and regulations of the Washington State Department of Revenue, the tax due on any additional consideration paid by the buyer and received by the seller shall be paid to the county treasurer (1) at the time of termination, or (2) at the time that all of the consideration due to the seller has been paid and the transaction is completed except for the delivery of the deed to the buyer, or (3) at the time when the buyer unequivocally exercises an option to purchase the property, whichever of the three events occurs first.

The term "mining property" means property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessor to conduct exploration or mining work thereon and for no other use. The term "metallic minerals" does not include clays, coal, sand and gravel, peat, gypsite, or stone, including limestone.

28A.45.090 SALES OF STANDING TIMBER AFFIDAVIT—REQUIRED.

Where the transaction involved constitutes a sale of standing timber under this ordinance and the selling price is stated in such conveyance as being determinable in the future on the basis of footage removed or on a stumpage basis, it shall be the duty of the seller to execute and file with the county treasurer the affidavit required by Section 6, stating, in addition to the other requirements, the legal description of the real property on which such standing timber is located and an estimate, to the best of his knowledge, of the selling price ultimately to be received and shall pay to the county treasurer under this ordinance a sum equal to one percent of such estimated selling price, which sum shall not be credited by the treasurer to the school fund, but shall be retained in a separate account. On the expiration date of such timber contract, if not extended, or at the time of cutting and removal is completed, whichever is earlier, it shall be the duty of the seller to execute and file with the county treasurer an additional affidavit in the above form setting forth the price actually paid. In the event such amount results in a tax greater than the sum theretofore paid on the estimate, the seller shall pay such additional amount to the treasurer who shall thereupon place this amount, together with the sum originally deposited, to the credit of the school fund in the usual manner. In the event such amount be less than the original estimate, the treasurer is hereby directed to refund the excess payment to the taxpayer and credit the balance to the school fund as above.

28A.45.100 TREASURER TO RETAIN AFFIDAVIT.

The Treasurer shall retain and file the original of the affidavit required by Section 9 of this Ordinance and shall furnish one copy to the County Assessor.

28A.45.110 SINGLE FAMILY RESIDENTIAL PROPERTY—TAX CREDIT WHEN SUBSEQUENT TRANSFER OF WITHIN NINE MONTHS FOR LIKE PROPERTY.

Where single family residential property is being transferred as the entire or part consideration for the purchase of other single family residential property and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the property by the broker or party if said transfer is made within nine months of the transfer to the broker or party: PROVIDED, That if the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party the difference shall be paid, but if the tax initially paid is greater than the amount of the tax which would be due on the subsequent transfer no refund shall be allowed.

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28A.45.120 TAX DUE DATE.

The tax imposed hereunder shall become due and payable immediately at the time of sale and, if not so paid within thirty days thereafter, shall become due and payable immediately at the time of sale and, if not so paid within thirty days thereafter, shall bear interest at the rate of one percent per month from the date of sale.

28A.45.130 DISPOSITION OF TAX PROCEEDS.

The proceeds of the tax provided for in this Ordinance shall be placed in the county school fund and shall be used exclusively for the support of the common schools: PROVIDED, that one percent of the proceeds of the tax provided for herein shall be placed in the Current Expense fund, out of which fund all costs and expenses of administering this Ordinance, including the cost of printing, stamps and forms of affidavits and receipts and other forms which may be necessary, shall be paid.

28A.45.140 REFUNDS—APPLICATION—TIME LIMIT.

If, upon written application by a taxpayer to the Wahkiakum County Treasurer for a refund hereunder, or upon examination of the records by the treasurer without such application, it appears that within one year preceding such application or examination a tax has been paid hereunder in excess of the amount actually due or upon a sale or other transfer herein declared to be exempt from tax hereunder, such excess amount or improper payment shall be refunded by the treasurer to the taxpayer. No refund shall be made with respect to any payment made more than one (1) year before the date of the application or examination.

28A.45.150 FAILURE TO SUBMIT AFFIDAVITS—FALSE STATEMENTS.

It is unlawful for any seller liable for the tax imposed by this Ordinance to fail or refuse to submit the affidavits as and when required by this Ordinance or to fail or refuse to pay the tax when due, or for any person to make any false or fraudulent affidavit or any false statement or representation in, or in connection with, any such affidavit, or to aid or abet another in any attempt to evade payment of the tax or any portion thereof.

28A.45.160 VIOLATIONS—PENALTY.

Any person, association, partnership, organization, or corporation violating or failing to comply with any provisions of this Ordinance or any lawful rule or regulation adopted pursuant hereto shall be deemed guilty of a misdemeanor and shall upon conviction thereof be fined in the sum of not less than \$50.00 nor more than \$500.00 and/or imprisoned in the Wahkiakum County Jail for not more than ninety (90) days, or both, no part of which fines shall be suspended or deferred. Any fine imposed for violation of this Ordinance shall be in addition to the tax required.

28A.45.170 PRIOR ORDINANCE REPEALED.

The Ordinance recorded at page 486 of Volume K of the Commissioners' Journal of Wahkiakum County, Washington, entitled "An Ordinance Relating to Sales of Real Estate and Levying and Excise thereon," shall be, and the same is hereby, repealed.

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28A.45.180 SAVINGS CLAUSE.

The adoption of this Ordinance shall not be construed as affecting any existing right acquired or obligation or liability incurred, under the provisions of this Ordinance repealed hereby, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder.

28A.45.190 SEVERABILITY.

Should any section, paragraph, sentence, clause or phrase of this Ordinance or its application to any person, circumstance be declared to be unconstitutional whether because of conflict with general law or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.