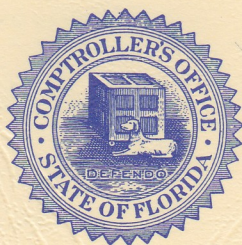


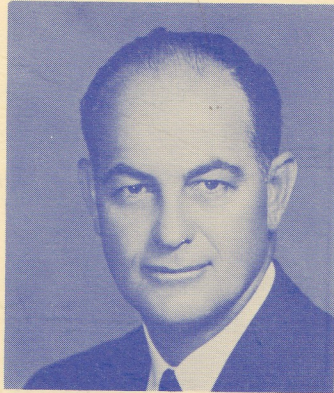
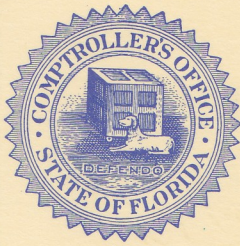
**EXCISE TAX ON DOCUMENTS
CHAPTER 201
FLORIDA STATUTES**

**COURT DECISIONS
and
COMPTROLLER'S RULINGS**

January 1, 1968



**FRED O. DICKINSON, JR.
COMPTROLLER OF FLORIDA
TALLAHASSEE**



Florida has earned a reputation among states for sound fiscal policies and a healthy economy. It is the duty and responsibility of the State Comptroller to protect and enhance that reputation.

Fred O. Dickinson, Jr.
Comptroller of Florida

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FOREWORD

Under Section 201.11 the administration of the Documentary Stamp Tax Law is vested in the Comptroller who shall prescribe suitable rules and regulations for the enforcement thereof. The rulings of the Comptroller set forth in this booklet are official. They are based on Attorney General's opinions of long standing. Many sessions of the Legislature have intervened since they were promulgated. They have been uniformly enforced. They are binding on all persons who may be liable for the payment of the documentary stamp tax.

The cooperation of all state and county officials, all attorneys and all taxpayers in the uniform enforcement of the Act is earnestly requested.

FRED O. DICKINSON, JR.
Comptroller of Florida.

DOCUMENTARY STAMP TAX

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EXCISE TAX ON DOCUMENTS

201.01 Documents taxable, generally.—There shall be levied, collected and paid the taxes specified in this chapter, for and in respect to the several documents, bonds, debentures or certificates of stock and indebtedness, and other documents, instruments, matters, writings, and things described in the following sections, or for or in respect of the vellum, parchment, or paper upon which such document, instrument, matter, writing, or thing, or any of them, are written or printed by any person, who makes, signs, executes, issues, sells, removes, consigns, assigns, or ships the same, or for whose benefit or use the same are made, signed, executed, issued, sold, removed, consigned, assigned, or shipped in the state. Provided further that the documentary stamp taxes required under this chapter shall be affixed to and placed on all recordable instruments, requiring documentary stamps according to law, prior to recordation. On mortgages where the stamps are on the notes, a notation shall be made on the mortgage that the proper stamps and the amount of same have been placed on the notes.

History.—§1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); §1, ch. 61-278. cf.—§665.21 (1) Regulation of loans to stockholders.

COURT DECISIONS

Construction and Application.

This chapter must be construed and all doubts and ambiguity resolved in favor of taxpayers. *Metropolitan Publishing Company v. Lee*, 126 Fla. 107, 170 So. 442.

Liability of instrument to stamp duty, as well as amount of such duty, is determined by form and face of instrument and cannot be affected by proof of extrinsic facts. *Lee v. Kenan*, 78 F. 2d. 425, 100 A. L. R. 869.

COMPTROLLER'S RULINGS

Who Pays the Tax.

The tax is on the instrument and the Law does not specify who shall pay it but requires it to be paid. Usually, parties agree who shall pay the tax. Letter November 3, 1931.

Stamps Are Required to Be Affixed to Instruments Before Recordation.

Clerks of the Circuit Court should refuse to record documents subject to the proviso in Section 201.01, as amended by Chapter 61-278, Acts of 1961, unless taxes due thereon under Chapter 201, Florida Statutes, have been paid "prior to recording," and such recordation without payment may fail to give constructive notice to the public. A. G. 061-188.

201.02 Tax on deeds and other instruments relating to lands, etc.—On deeds, instruments, or writings, whereby any lands, tenements, or other realty, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser, or any other person by his direction, on each one hundred dollars of the consideration therefor the tax shall be thirty cents; provided, that when

the full amount of the consideration for the execution, assignment, transfer, or conveyance, is not shown in the face of such deed, instrument, document, or writing, then in such event the tax shall be at the rate of thirty cents for each one hundred dollars, or fractional part thereof, of the consideration therefor.

History.—§1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); §1, ch. 57-397; §1, ch. 63-533.

COURT DECISIONS

Assignments of Realty Mortgages.

Language of this section is not sufficiently broad and inclusive to embrace therein assignments of mortgages on real estate. *State ex rel. Rogers v. Sweat*, 113 Fla. 797, 152 So. 432.

Construction and Application.

Liability of instrument to stamp duty, as well as amount of such duty, is determined by form and face of instrument and cannot be affected by proof of extrinsic facts. *Lee v. Kenan*, 78 F. 2d 425, 100 A. L. R. 869.

Consideration Love and Affection.

Where love and affection constituted the only consideration for conveyance of realty to grantors' daughter and she paid nothing for deed and was not obligated to pay anything of value therefor, deed was not subject to documentary stamp tax, since transfer was not made for a monetary consideration F. S. A. §201.02. *Culbreath v. Reid*, 65 So. 2d 557.

Conveyance to Stockholders on Proportionate Basis.

Where grantees, who were all stockholders of grantor corporation, took interest in land conveyed by corporation in proportion to their stockholdings and they paid no money for it and transferred nothing of value to corporation in exchange for land conveyed, such grantees were not "purchasers" and did not pay a reasonable determinable consideration for conveyance as contemplated by statute imposing documentary stamp tax on transfer of real property, and consequently were not obliged to pay such tax. F. S. A. §201.02 *State ex rel. Palmer-Florida Corporation v. Green*, 88 So. 2d 493.

Monetary Consideration.

When taxes are to be levied according to a monetary consideration, law contemplates that such tax should be confined to actual monetary consideration or to considerations which have a reasonably determinable pecuniary value. *DeVore v. Gay*, 39 So. 2d 796.

Leases.

Short term leases wherein considerations passing to lessors were lessee's promises in future to pay rent were not subject to documentary stamp tax imposed by statute on each \$100 of consideration on deeds, instruments, or writings whereby any lands or interest therein are conveyed to a purchaser, since considerations passing to lessors for leases were executory. F. S. A. §201.02 *DeVore v. Gay*, 39 So. 2d 796.

Agreement for Deed, When Not Subject to Tax.

Because the language of Section 7 in the agreement, among other things, provides that it impose no personal liability as against the buyer or any subsequent purchaser from the buyer, or any beneficiary for whom they may be acting, it being the understanding of the parties that the seller will look only to the land itself for payment of the balance of the purchase price, agreements for deeds

EXCISE TAX ON DOCUMENTS

with this language or like language under no circumstances could be construed as an "obligation to pay money." State ex rel. Weinberg, as Trustee, v. Ray E. Green, 132 So. 2d 761.

Taxation.

Documentary stamp taxes could not be imposed on deeds executed and delivered by General Services Administration, an agency of the federal government. A deed, from General Services Administration, as grantor, to an individual, as grantee, was entitled to be recorded without the payment of tax.

History. F.S.A. §§201.01, 201.02, 215.26. State ex rel Seaboard Airline Company v. Ray E. Green, 173 So. 2d. 129.

COMPTROLLER'S RULINGS

Contract for Deed Owned by Building and Loan Association.

Contracts for deeds to land owned by building and loan associations are subject to the documentary stamp tax. 39-40 Atty. G. R. 435.

Crop Liens.

A crop lien unquestionably is an interest in real estate to the extent that as long as the crop is not matured and until it is ready for severance, it is a part of the real estate; therefore, crop liens are subject to the documentary stamp tax. 31-32 Atty. G. R. 853.

Deed and Mortgage.

Where land is sold for the purchase price of \$100,000.00, and cash in the amount of \$5,000.00 is paid and a purchase price mortgage given for \$95,000.00, the deed conveying the property should have affixed to it \$300.00 worth of documentary stamps, and the note accompanying the mortgage should have affixed to it \$142.50 in documentary stamps. Letters November 19, December 9, 1931.

Deed for Cancellation of Mortgage.

When a deed is given to property and the consideration is the cancellation of the mortgage, the documentary stamp tax is based upon the amount of the mortgage cancelled. 31-32 Atty. G. R. 487; 482; 862.

Deed Made Necessary by Virtue of Merger of Two Corporations.

Where a Florida corporation owning real estate in this State is merged with another corporation and a deed of conveyance is subsequently made, executed and recorded evidencing the transfer of the title pursuant to such merger, such deed is not subject to the Florida documentary stamp tax. 49-50 Atty. G. R. 254.

Deed of Conveyance Not Showing Purchase Price.

Where a deed does not show the full amount of the consideration, the party paying the documentary stamp tax is required to disclose the full consideration, and the amount of tax is based thereon. 31-32 Atty. G. R. 482.

Deeds Between Joint Owners.

Property owned jointly by two or more such as mother and daughter, and the mother desires to deed daughter all her interest and equity in the property and the daughter desires to hold and own this property with her husband as an estate by the entirety, mother and daughter execute and deliver the deed to a third party who in turn deeds the property back to daughter and husband as an estate by the entirety, the stamp tax necessary is based on one-half the value of

the property representing the interest conveyed by the mother. The tax: on first deed based on one-half value of property and 30¢ on second deed. 45-46 Atty. G. R. 335.

Deeds, Deferred Payments.

All deeds require the documentary stamp tax based on the amount of the purchase price regardless of whether it is in deferred payments or all cash. Letter October 17, 1931.

Deeds from Private Owners to State or Its Instrumentalities.

The documentary stamp tax is due on the instrument itself, the deed, and the duty to pay rests upon both the grantor and the grantee. Deeds conveying property from a grantor who is not exempt to the State or its agencies are subject to the tax. Likewise, deeds given by the State to a grantee who is not exempt are subject to the tax. Deeds given from Federal or State Government and its instrumentalities to another instrumentality of the State or Federal Government are not subject to the tax, as both grantor and grantee are exempt. 35-36 Atty. G. R. 29.

Deeds to Cemetery Lots.

A deed transferring title to a cemetery lot requires the proper documentary stamp tax. 31-32 Atty. G. R. 1000.

Deeds to Correct Errors:

Deeds executed to correct errors in deeds which had theretofore been executed require documentary stamp, the amount of tax depending on the amount of the consideration therefor. If the deed to correct errors is executed without any further consideration than that for which the prior deed was executed and if the full amount of stamps required was placed on the former deed, then in such event only one 30¢ stamp would be required on the deed of correction. 33-34 Atty. G. R. 50.

Deeds to Real Estate and Mortgage in Connection Therewith—Amount of Tax.

Where a piece of property is sold and a deed for it is given and a mortgage is taken as a part of the purchase price with notes securing the mortgage, the documentary stamp tax on the deed is the full purchase price of said property, including that which is paid by giving the mortgage. Also, the notes given to secure the mortgage are subject to the full amount of revenue stamps according to the amount of the notes. In a sense this may be double taxation, yet double taxation such as this is not violative of any constitutional provision, and unquestionably this was the intention of the Legislature as shown by a careful reading of the Act. 31-32 Atty. G. R. 1002.

Deeds to Florida Real Estate Subject To.

All deeds conveying interest in real estate in Florida must bear the documentary revenue stamp, regardless of where the deed may be made, executed or delivered. Letter June 18, 1932.

Definition of Master's Deed.

In all foreclosure of mortgage suits a Special Master is appointed by the Court to sell the property to the highest bidder, and when the sale has been made a Master's Deed is executed to the purchaser by the Special Master. Letter October 19, 1931.

"Deposit Receipt, Papco's Form R. E. 50" Used in Connection with Sale and Purchase of Real Estate.

A deposit receipt on "Papco's Form R. E. 50" when used in connection with the sale and purchase of real estate in the State of Florida is not subject to the documentary stamp tax. 47-48 Atty. G. R. 224.

Easement Contracts.

An easement constitutes an interest in land and therefore easement contracts are subject to the documentary stamp tax. Letter April 15, 1932.

Indebtedness of Governmental Agency.

All notes, bonds, mortgages, deeds and other evidence of indebtedness issued, sold, transferred, assigned or delivered by any State, County or subdivision thereof, or municipality, all being Governmental agencies, are exempt from the documentary stamp tax. This also applies, of course, to such documents and instruments issued by the Federal Government and its agencies. 31-32 Atty. G. R. 892.

Federal Land Bank Mortgages and Notes.

Section 931 of Title 12, United States Code, provides,

"First mortgages executed to Federal Land Banks or to Joint-Stock Land Banks, and Farm Loan Bonds executed under the provisions of this Chapter shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, Municipal and local taxation."

In the light of the above provision of the Federal Law, documentary stamps are not required on:

1. Mortgages to Federal Land Banks.
 2. Notes to Federal Land Banks.
 3. Master's Deeds to Federal Land Banks pursuant to mortgage foreclosures.
- 31-32 Atty. G. R. 281.

Internal Revenue Discharge of Tax Lien.

Certificate of Discharge of tax lien under the Internal Revenue Law is not subject to the documentary stamp tax. Letter November 19, 1931.

Lease—Value of When No Amount Specified.

A lease of citrus grove property by the terms of the lease provides for equal division of the fruit raised. The documentary stamp tax should be based upon the actual value of such grove based upon past experience. 31-32 Atty. G. R. 906; 33-34 Atty. G. R. 48.

Leases on Turpentine and Timber.

Leases on turpentine and timber convey an interest in land and are subject to the documentary stamp tax. 31-32 Atty. G. R. 487.

Master's Deed Solely for Settling Income Tax.

A Master's Deed given solely for the purpose of settling Federal income tax is not subject to the documentary stamp tax if the deed does not bring more than the amount of the Federal lien. If the property does bring more than the amount of the Federal lien, this additional amount would be the amount upon which the documentary stamp tax should be based. Letter February 3, 1932.

Master's Deed to Municipality.

Documentary stamps are not required on Master's Deed to a city in a suit to foreclose city assessments. However, if such deed is made to an individual or private corporation, it is subject to the proper documentary stamps. Letter January 22, 1932.

Masters' Deeds.

Masters' Deeds are subject to the documentary stamp tax which would should be figured at 30¢ on each \$100.00 or fractional part thereof on the amount of the bid or purchase price. 31-32 Atty. G. R. 828; 892; 987.

Mortgages, Notes and Deeds Executed by or to National Banks.

Mortgages, notes and deeds executed by or to a national bank located within the State of Florida are required to have the necessary amount of State documentary stamp tax attached regardless of whether executed by or to a national bank. The tax is not upon the maker or payee but upon the document, and the requirement is that it be paid either by the maker or payee. Letter June 15, 1933.

Oil and Gas Leases.

Oil and gas leases on real estate are subject to the State documentary stamp tax. 45-46 Atty. G. R. 336; 49-50 Atty. G. R. 255.

Oil and Gas Leases.

Oil and gas leases and assignments or conveyances of oil, gas and mineral rights, or royalty interests, affecting lands in this state, are subject to the proper documentary stamp tax. 49-50 Atty. G. R. 255.

Receiver in Bankruptcy.

A receiver or trustee in bankruptcy in the United States District Court, when selling real estate of the bankrupt estate is required to attach documentary stamps to deeds conveying the estate of the bankrupt. 31-32 Atty. G. R. 1039.

Sheriff's Deed.

Sheriff's deed conveying lands to successful bidder at an execution sale is subject to the documentary stamp tax based on the full purchase price of the property. 31-32 Atty. G. R. 1017.

Trackage Contracts with Railroad Companies.

Trackage contracts made between a railroad company and a manufacturing corporation under which the manufacturing corporation is granted the right to operate engines and cars of the manufacturing corporation over and upon the tracks of the railroad company between certain points, are written obligations to pay money as well as a lease upon lands, and are subject to the documentary stamp tax. Letter December 13, 1933.

Transfers and Assignments to Trustees.

In those instances where certain assets consisting of lands, judgments, notes secured by mortgage, crop liens and certificates of stock of a corporation are about to be transferred to trustees under the terms of a trust agreement whereby the trustees are not buying the assets and are taking title thereto only for the purpose set forth in the trust instrument, the following instruments involved in such a transaction are subject to the documentary stamp tax: deeds transferring or conveying the title to lands, assignment of judgments, crop liens and mortgages, the tax on such instruments is measured by the consideration for the transfer, conveyance or assignment. In these cases the amount of stamp tax would be 30¢ on the deeds. The tax on transfer or assignment of shares of stock is measured by the face value of the stock. 33-34 Atty. G. R. 45.

Transfers of Interest in Realty.

Under the provisions of the Statute it seems that it is almost impossible to make a transfer of any interests in lands, tenements or other realty by any method whatsoever without the same being subject to the documentary stamp tax. Letter August 10, 1933.

Trust Deed or Mortgage Given to Secure Bonds or Notes.

Where a trust deed or mortgage is given to secure bonds or notes, the required documentary stamps should be placed upon the bonds or notes and a notation

made on the margin of the trust deed or mortgage reciting the fact that the documentary stamps have been attached to such bonds or notes. 31-32 Atty. G. R. 864; 43-44 Atty. G. R. 223.

Cooperative Apartment Leases.

Where a proprietary lease of a cooperative apartment building, located in this State, requires that persons leasing apartments in such building to purchase a sum certain in the corporate stock of the owning corporation and pay annual sums, such lease to the extent that it contains a present obligation to pay a sum or sums certain in money, that is to purchase corporate stock, is subject to the proper documentary stamp tax, but insofar as it contains promises to pay moneys, the sums of which may not be determined at this time and may only be determined in the future, it is not subject to documentary stamp tax for that part. When the stock is issued, the stock must bear the proper documentary stamp tax. 47-48 Atty. G. R. 231.

Conveyance Between Husband and Wife to Have Title in Joint Names.

A deed to husband and wife of property which was in the husband's name only is not subject to the documentary stamp tax when the sole consideration is his desire to have the title of the property in the joint names. If there is actual accompanying monetary consideration the deed is subject to the documentary stamp tax, based on such consideration. A. G. 053-179.

Certificates of Title Issued by Clerk Circuit Court.

Certificates of title issued by the Clerk of the Circuit Court under authority of Section 702.02 F. S. are subject to the documentary stamp tax, based on the amount bid at the sale and paid by the purchaser. 53-54 Atty. G. R. 267.

Conveyances in Connection with Dissolution of a Corporation.

In connection with the dissolution of a corporation, when the real property of the corporation is conveyed to its stockholders in exchange for the corporate stock held by them, the conveyances are not subject to the Florida documentary stamp tax when an actual monetary consideration or a consideration which has a reasonably determinable pecuniary value is not paid for the property. A. G. 053-331.

Conveyance to Corporation for Convenience in Mortgaging Property.

Where real property is owned by "A" who desires to obtain a mortgage loan thereon and in order that his name may not appear on the note and the mortgage a corporation is formed and conveyance of the land made to the corporation in order that the corporation should be the obligor on the note and assume the covenants of the mortgage, and directly after the mortgage was processed and recorded an immediate conveyance was made from the corporation to "A," neither of the deeds are subject to the documentary stamp tax as it is apparent that the conveyances were made solely for the purpose of convenience unattended by any intention to effect an actual transfer of the ownership of the lands, and unattended by the payment of any monetary or pecuniary consideration. A. G. 054-46.

Shares of Corporation Stocks as Consideration.

Where property is conveyed to a corporation in exchange for the issuance of a stated number of shares of the capital stock of the corporation, the documentary stamp taxes due are measured by the par or fixed value of the stock issued therefor unless it is made to appear that there was other consideration for the stock in addition to the said conveyance. A. G. 057-12.

Eminent Domain Judgments and Decrees.

Judgments and decrees issued by a court in eminent domain proceedings, which convey to a condemnor title to real property, are not subject to state documentary stamp tax. A. G. 058-31.

Financing Under Section 1715e, Title 12, United States Code.

Instruments, used in connection with the financing of housing projects, made, issued and delivered by the non-profit corporation and those made by their stockholders, members or beneficiaries, in order to comply with the federal statute and vest title of the individual housing units in the said stockholders, members or beneficiaries, are in truth and fact one transaction and should be taxed as instruments of a single transaction. A. G. 058-137.

Mortgages.

That in the absence of a showing that the consideration for the release or satisfaction of a mortgage is otherwise, the documentary stamp tax should be computed on the unpaid portion of the obligation secured by the mortgage A. G. 059-203.

Conveyances of Property.

Where a husband and a wife are vested with title to certain real property, as an estate by the entirety, subject to a mortgage for which they are liable, and the wife conveys her interest in such property to the husband in consideration of his consent to a decree awarding her alimony, support money and property settlement agreement, the amount of documentary stamp tax required on a deed conveying realty should be based on the monetary consideration capable of present calculation given for the deed. A. G. 059-243.

Certificates of Title to Governmental Instrumentalities.

Certificates of title issued pursuant to Section 702.02, Florida Statutes, to the Federal National Mortgage Association, as grantee, in connection with the foreclosure of a mortgage held by the association are the obligations of the mortgagor, the conveyance having been made for his account; and it may not reduce the claim of the mortgagee agent of the Federal Government. The tax being the obligation of the mortgagor, he is liable for the payment of the same; and such claims may be paid from any funds due and payable to the said mortgagor if there be such, after the payment of prior claims in connection with the foreclosure. A. G. 060-125.

Clerks' Certificates of Title; Stamp Taxes; Liability and Payment.

Attorney General's Opinion 053-207, August 19, 1953. Ray E. Green, State Comptroller, was advised by the Attorney General that documentary stamp taxes on clerks' certificates of title should be paid by the clerk from the proceeds of the sale of the property, treating the same as a part of the costs, unless otherwise directed by the court. Further, the clerk's certificate of title should not be issued prior to the payment of the stamp taxes thereon, unless directed by the court. A. G. 060-177.

Conveyances to Remove Clouds from Title, etc.

Documentary stamp taxes are due on conveyances given for the purpose of clearing the title of an owner and that the measure of the taxes due is the consideration given for the deeds of conveyance. Quit-claim deeds from Vendee to Vendor when the contract to purchase has been voided by failure to make payments, the tax due is on the amount Vendor pays for the deed. A. G. 060-199.

Obligations Brought into State for Collection.

Contracts for the purchase and sale of real property located in this state, made, executed and delivered in other states, when sent into this state for purposes of collection only does not subject it to taxation under Chapter 201, Florida Statutes. A. G. 060-209.

Vendors' Liens; Covenants to Pay.

Where a deed of conveyance recites the retention of a vendor's lien and contains a provision that the vendee agrees to the reservation of the said lien and to pay the unpaid balance of the purchase price, there is a written promise to pay money within the purview of Section 201.08, Florida Statutes. A. G. 061-8.

Deeds from Mortgagees to Federal Agencies in Connection with Insured Loans.

Section 201.02, Florida Statutes. Title 12, Sections 1707 et seq., 1709 and 1713, and Title 38, Sections 1801 et seq., United States Code. Conveyances from National Banks to the Federal Housing Commissioner and the Veterans Administration, in connection with Federal mortgage insurance are not subject to Florida documentary stamp taxes. A. G. 061-46.

Purchase Subject to Mortgage.

The measure of documentary stamp taxes under Section 201.02, Florida Statutes, where a parcel of real property is sold and conveyed subject to an outstanding mortgage or other lien encumbering it, without the grantee assuming and agreeing to pay the said mortgage or lien is the consideration paid for the conveyance, which must be presumed to include any mortgage, lien or encumbrance to which the conveyance is made subject. A. G. 061-77.

Veterans Administration Guaranteed Loans.

Sections 201.01 and 201.02, Florida Statutes. Attorney General Opinions 061-46, March 14, 1961; 060-177, October 28, 1960; and 053-207, August 19, 1953. Veterans Administration was advised by the Attorney General that promissory notes given by veterans as evidence of indebtedness to the Administrator of Veterans Affairs, incident to a direct loan are subject to State of Florida documentary stamp taxes by their maker. Deeds to or from the Administrator, in transactions involving the sale of properties to purchasers, and the acquisition of properties from holders of guaranteed and insured loans after foreclosure are not subject to state documentary stamp tax. Further, in those cases in which the Administrator is the successful bidder at the foreclosure sale, the certificate of title is subject to state documentary stamp tax for the account of the mortgagee. In direct loan cases in which the veteran-borrower voluntarily conveys the security to the Administrator in lieu of foreclosure, the grantor is subject to a tax under Section 201.02, Florida Statutes, but the Administrator would not be liable therefor. A. G. 061-84. (See interpretation below.)

Deeds to Federal Housing Commissioner—Administrator of Veterans Affairs; etc.

Opinions 061-84 and 061-122 interpretation as follows:

1. Deed from Master or Clerk of the Court to the Federal Housing Commissioner or to the administrator of Veterans Affairs under foreclosure proceedings is subject to the documentary stamp tax.
2. Deed from mortgagee direct to the Federal Housing Commissioner or to the Administrator of Veterans Affairs in lieu of foreclosure is subject to the documentary stamp tax.
3. Deed from a Master or Clerk of the Court to a bank, savings and loan association or other mortgagee in connection with a foreclosure proceeding is subject to the documentary stamp tax.

4. Deed from mortgagor to bank, savings and loan association or other mortgagee in lieu of foreclosure is subject to the documentary stamp tax.

5. Deed from bank, savings and loan association or other lender, to Federal Housing Commissioner or the Administrator of Veterans Affairs pursuant to contract of guaranty is not subject to Florida documentary stamp tax.

Deeds to and from Federal Agencies: Insured Loans.

Where a mortgage is guaranteed under the Serviceman's Readjustment Act of 1944 (a so-called VA mortgage) and title is acquired by the mortgagee (by foreclosure or deed in lieu of foreclosure) and thereupon conveyed by the mortgagee to the Administrator of Veterans' Affairs pursuant to the contract of guaranty, the deed effecting such conveyance is not subject to State of Florida documentary stamp taxes. Further, where a mortgage is insured under the National Housing Act (a so-called FHA mortgage) and title is acquired by the mortgagee (by foreclosure or deed in lieu of foreclosure) and thereupon conveyed to the Federal Housing Commissioner pursuant to the contract of insurance the deed effecting such conveyance is not subject to State of Florida documentary stamp taxes. A. G. 061-122. (See interpretation above)

Exchange of Property by the Respective Owners.

In an exchange of real property by the respective owners of the property exchanged, lands are given as consideration for the transfer of other lands between the parties. The consideration has a reasonably determinable value (*DeVore v. Gay, supra*). Either parcel of land is a valuable consideration for the transfer of the title to the other parcel of land, each deed being subject to documentary stamp tax. A. G. 061-120.

Reconveyance of Vendee's Interest to Vendor, etc.

Documentary stamp taxes are due on a conveyance of the vendee's interest to the vendor in satisfaction of the vendee's obligation under the contract to convey, where the indebtedness of the vendee is cancelled or otherwise rendered unenforceable; the measure of the tax payable being determined by the amount of the indebtedness cancelled or otherwise rendered unenforceable, by reason of the reconveyance of the legal or equitable title to the mortgagee or the vendor. A. G. 060-165.

Deeds of Conveyance from Federal Housing Commissioner to Individuals, etc.

Deeds of conveyance from the United States, by and through the Federal Housing Commissioner, to individuals, firms and corporations are not subject to documentary stamp taxes under Section 201.02, Florida Statutes. A. G. 061-137.

Agreements for Deeds—Weinberg Case—Opinion 059-244.

In light of the Weinberg case, 132 So. 2d 761, contracts for the sale of land, containing no "Written obligation to pay money" of the same nature of promissory notes and non-negotiable notes, are not to be deemed written obligations to pay money within the purview of Section 201.08, Florida Statutes. Attorney General's Opinion 059-244 should be construed as extending to contracts for the sale of land containing express obligations to pay money, of the same genus as promissory notes and non-negotiable notes. With this limitation, Opinion 059-244, is adhered to and confirmed. A. G. 061-176.

Explanation: In the Weinberg case the following provisions were incorporated in the agreement for deed:

"as against the buyer or subsequent purchaser from the buyer, or any beneficiary for whom they may be acting, it being the understanding of the parties that the seller will look only to the land itself for payment of the balance of the purchase price."

If a contract or agreement for a deed has this provision or similar provision, there is no obligation to pay money in the contract and no documentary stamps are due. If there is no such provision in the contract or agreement, under Attorney General's Opinion 061-176 there is an obligation to pay money and the stamp tax is due.

Certificates of Title; Deeds to Encumbered Property.

An outstanding mortgage indebtedness is presumed to be included in the purchase price of the lands purchased, and the amount of documentary stamp taxes will be measured by the consideration paid, including the amount of the outstanding mortgage. This presumption is not applicable where a clerk's certificate of title issued pursuant to Section 702.02, Florida Statutes, is issued subject to an outstanding mortgage. In such cases, only the amount of the sale price determines the proper amount of documentary stamp taxes required. A. G. 062-35.

Intangible Personal Property Taxes; Shares in Trusts; Securities.

Shares or other evidence of beneficial interests in real and personal property held in trust, issued by the trustee or trustor, are intangible personal property subject to taxation under Chapter 199, Florida Statutes, only when the trust estate itself is not subject to ad valorem taxation in this state. Obligations issued by a business trust, in the form of bonds, notes and like instruments, secured by lien on trust property or unsecured, are intangible personal property subject to taxation under Chapter 199, Florida Statutes, when they have a tax situs in this state. This does not include certificates or other evidences of an interest in the trust property. Such bonds, notes and like instruments are within the purview of subparagraph 3, paragraph (a), subsection (2), Section 199.02, and when registered must be reported to the State Comptroller of Florida when they have a tax situs in Florida. Shares or other evidence of beneficial interest in real property held in trust are within the purview of Section 201.02, Florida Statutes; however, such interests in personal property is not within said Section 201.02, it being limited to real property and interests therein. Obligations issued by a business trust, if otherwise within the purview of the several sections of Chapter 201, Florida Statutes, whether secured or unsecured, are subject to documentary stamp taxes, unless within some express exemption provision of the Florida Constitution, statutes or laws. A. G. 062-55.

Contracts to Sell and Convey; Assignments.

When a vendor, under a contract to sell and convey real property, transfers such property to a third person, whether such transfer includes the obligation of the vendee to pay money or not, documentary stamp taxes for such transfer should be measured by the consideration agreed to be paid by the vendee, less any taxes previously paid on such transaction under said Section 201.02, Florida Statutes, if any. A. G. 062-80.

Contract of Sale Subject to Mortgage Indebtedness.

In the absence of sufficient competent evidence to the contrary, the mortgage obligation should be included when imposing documentary stamps where the interest of a vendor in a contract to sell and convey real property is conveyed and/or assigned to a third person where such real property is subject to an outstanding mortgage. A. G. 062-99.

Sale of Dead Resinous Pine Stumps and Wood.

Contracts and agreements between landowners and others for the taking and using of dead resinous pine stumps and wood, standing timber, and other prod-

ucts of the land are subject to documentary stamp taxes, as a transfer of an interest in land. A. G. 062-114.

Real Estate Leases Whereby a Tenure of Time Is Purchased.

Leases of real property, whether for a term of years or for the life or lives of persons in being, are transfers of lands, tenements or other realty, of an interest therein, within the purview of Section 201.02, Florida Statutes. A. G. 062-145.

Interpretation.

In view of the case DeVore v. Gay, 39 So. 2d 796. Opinion 062-145 is to be applied to leases when the payments are over a designated period to purchase a term of tenure longer than the period of payments. In the lease on which this opinion was rendered the term was 99 years and the payments were \$5,200.00 down and 240 payments at \$57.86. This amounts to an outright obligation for the payment of money and is taxable. The tax is to be arrived at by the use of The Present Worth Table of Periodic Payments of One Unit Each. The opinion is not to be applied to leases when the payments are provided throughout the term of the lease for the use of the property.

Two Examples of Present Worth of Rental Payments on Leases.

By present worth is meant the value of a sum of money due at a future date discounted to the present time by deducting interest from the present to the due date.

To facilitate the finding of present worth, attached hereto is a table of "The Present Worth of Periodic Payments of One Unit Each" furnished from "Mathematics for the Accountant" by Eugene R. Vinal, and can also be found in many other higher mathematics.

To find the present worth of rental payments of a lease for a period of years, herein below are two examples, one that can be used as a guide for the regular payments over a period of time, and one for irregular payments over a period of time.

Example: Regular payments; can be used for any number of years.

Lease rentals at the rate of \$500.00 per month for 20 years.

\$500.00 multiplied by 12 months equals \$6,000.00, the yearly payment.

The present worth of one annuity for 20 periods taken from the attached table is 13.59032634.

13.59032634 multiplied by \$6,000.00 equals \$81,541.95, the present worth.

Hence, from the above, we have the following:

$$\$500.00 \times 12 = \$6,000.00$$

$$13.59032634 \times \$6,000.00 = \$81,541.95 \text{ present worth}$$

Therefore, \$81,541.95 is the amount to take into consideration in collecting the documentary stamp tax at the rate of 30¢; the tax due on this amount would be \$244.80 to which add the tax on the down payment for total tax due.

Example: Irregular payments; can be used for any number of years.

Lease rentals at the rate of:

\$12,000.00 for 20 years.

\$15,000.00 for 20 years.

\$20,000.00 for 20 years.

\$25,000.00 for 39 years.

EXCISE TAX ON DOCUMENTS

This has to be worked as four separate computations, using the present worth table attached.

- (A) The annuity of 20 rent payments is 13.59032634
 $\$12,000.00 \times 13.59032634 = \$163,083.91$ present worth
- (B) \$15,000.00 for the second 20 years is a deferred annuity of 20 rents deferred 20 periods.
 The annuity for 40 rents 19.79277388
 The annuity for 20 rents 13.59032634
 Subtract 6.20244754
 $\$15,000.00 \times 6.20244754 = \$93,036.71$ present worth
- (C) \$20,000.00 for the third 20 years is a deferred annuity of 20 rents deferred 40 periods.
 The annuity for 60 rents 22.62348997
 The annuity for 40 rents 19.79277388
 Subtract 2.83071609
 $\$20,000.00 \times 2.83071609 = \$56,614.32$ present worth
- (D) \$25,000.00 for the remaining 39 years is a deferred annuity of 39 rents deferred 60 periods.
 The annuity for 99 rents 24.48519896
 The annuity for 60 rents 22.62348997
 Subtract 1.86170899
 $\$25,000.00 \times 1.86170899 = \$46,542.72$ present worth

Add the present worth of	(A)	\$163,083.91
	(B)	93,036.71
	(C)	56,614.32
	(D)	<u>46,542.72</u>

Total present worth of the above payments	\$359,277.66
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Therefore, \$359,277.66 is the amount to take into consideration in collecting documentary stamp tax at the rate of 30¢; the tax due on this amount would be \$1,077.90 to which add the tax on the down payment for total tax due.

The above example is for irregular payments for 99 years. The same principle is used for a shorter period.

EXCISE TAX ON DOCUMENTS

THE PRESENT WORTH OF PERIODIC PAYMENTS
OF ONE UNIT EACH

Years	4%	Years	4%
1	.96153846	51	21.61748521
2	1.88609467	52	21.74758193
3	2.77509103	53	21.87267493
4	3.62989522	54	21.99295667
5	4.45182233	55	22.10861218
6	5.24213686	56	22.21981940
7	6.00205467	57	22.32674943
8	6.73274487	58	22.42956676
9	7.43533161	59	22.52842957
10	8.11089578	60	22.62348997
11	8.76047671	61	22.71489421
12	9.38507376	62	22.80278289
13	9.98564785	63	22.88729124
14	10.56312293	64	22.96854927
15	11.11838743	65	23.04668199
16	11.65229561	66	23.12180961
17	12.16566885	67	23.19404770
18	12.65929698	68	23.26350740
19	13.13393940	69	23.33029558
20	13.59032634	70	23.39451498
21	14.02915995	71	23.45626440
22	14.45111533	72	23.51563885
23	14.85684167	73	23.57272966
24	15.24696314	74	23.62762468
25	15.62207994	75	23.68040834
26	15.98276918	76	23.73116187
27	16.32958575	77	23.77996333
28	16.66306322	78	23.82688782
29	16.98371463	79	23.87200752
30	17.29203330	80	23.91539185
31	17.58849356	81	23.95710755
32	17.87355150	82	23.99721879
33	18.14764567	83	24.03578730
34	18.41119776	84	24.07287241
35	18.66461323	85	24.10853116
36	18.90828195	86	24.14281842
37	19.14257880	87	24.17578694
38	19.36786423	88	24.20748745
39	19.58448484	89	24.23796870
40	19.79277388	90	24.26727759
41	19.99305181	91	24.29545923
42	20.18562674	92	24.32255695
43	20.37079494	93	24.34861245
44	20.54884129	94	24.37366582
45	20.72003970	95	24.39775559
46	20.88465356	96	24.42091884
47	21.04293612	97	24.44319119
48	21.19513088	98	24.46460692
49	21.34147200	99	24.48519896
50	21.48218462	100	24.50499900

Conveyance from the State, County, Municipality.

Deeds of conveyance from the state, a county, a municipality, or other public agency to some person, firm or corporation are subject to documentary stamp taxes under Chapter 201, Florida Statutes. A. G. 062-150.

Assumption Agreements in Conveyance and Separately.

Where the grantor of real property pays documentary stamp taxes, under Section 201.02, Florida Statutes, measured by the consideration passing from the grantee to him, plus the unpaid balance of any mortgage indebtedness encumbering the property assumed by the grantee under a covenant in the conveyance, additional documentary stamp taxes are not due under Section 201.02, Florida Statutes, where the grantee, or someone claiming by, through or under him, by specific written agreement with the holder of the mortgage indebtedness or other interested party, assumes and agrees to pay the same mortgage indebtedness, since the documentary stamp taxes are measured by the consideration for the conveyance agreed on, by and between the seller and the purchaser, and not by the assumptions of the indebtedness by others. The several assumptions and agreements to pay the mortgage indebtedness each relate to the same obligation. A. G. 062-157.

Interlocking Corporate Interests and Subsidiaries.

(1) Deeds of conveyance from a parent corporation to its subsidiary corporation, or from an individual to a corporation, even where such individual owns all the stock of such corporation, and otherwise to a corporation, are of property "granted, assigned, transferred or otherwise conveyed to or vested" in such corporation, within the purview of Section 201.02, Florida Statutes, and are subject to the tax imposed by said section, if such conveyances are made for a consideration, passing from the grantee to the grantor, which has some value measured in money of the United States. (2) Where a conveyance from a corporation to its subsidiary corporation is made resulting in an increase of the actual value of the stock of the subsidiary corporation, such transaction is a taxable one. (3) A conveyance from stockholders of a corporation to said corporation, as a contribution to capital, will result in an increase of the value of the outstanding corporate stock affected, and is a taxable transaction. A. G. 063-18.

Stock Transactions.

Deeds from privately owned corporations to officers or stockholders of such corporations are subject to documentary stamp taxes when: (1) Stock is surrendered therefor and the corporation continues; (2) no stock is surrendered therefor and the corporation continues; (3) stock is surrendered and the real estate is encumbered by lien or mortgage and the corporation continues; or (4) no stock is surrendered and the real estate is encumbered by lien or mortgage and the corporation continues, the general criteria being whether or not there has been a detriment to the seller and a monetary benefit to the purchaser or vice versa; if so there is a taxable transaction. A. G. 063-107,

Sale of Real Property from United States to Hillsborough County Port Authority.

Conveyances of real property by the United States to port authorities established by the Florida Legislature or under statutory authority are not subject to documentary stamp taxes under and pursuant to Section 201.02, Florida Statutes, A. G. 063-131.

Tax Obligations on Transfer of Interest in Cooperative Apartments.

The shares of stock in the average cooperative apartment corporation and the proprietary lease to the stockholder are inseparable and must be transferred together; that as such a unit, they constitute an interest in realty, which is subject to taxation on the basis of the consideration paid for the stock and the proprietary lease under Section 201.02, Florida Statutes. A. G. 064-41.

Gifts; Deeds to and by Wholly Owned Corporations.

In any gift transaction the donee's assets would be increased while the assets of the donor would be decreased. However, this fact would not be controlling. The controlling determinative fact would be whether or not a consideration passed from the donee to the donor. If a consideration did pass from the donee to the donor this would make this transaction one of purchase and sale rather than one of gift. It would then bring the transaction within the purview of Section 201.02, Florida Statutes. Letter November 8, 1966:

For the transfer to be exempt from documentary stamp tax, the investigation must show that it was the intention of the donor to make a gift and it must be established that a gift was made. If the deed shows that it was a gift for love and affection and nothing was received of value by the donor, it could be treated as a gift.

Deed; When Mortgage Does Not Merge with Title.

Documentary stamp tax liability would arise on the instrument even though said instrument contained the language, "the outstanding mortgage will not merge . . . but will remain an outstanding lien . . ." The amount of tax would be that amount arithmetically computed on the basis of the extent of the mortgage debt. Letter May 19, 1967.

Liability of Federal Government to Stamp Taxes of Conveyances of Real Property to it.

Although §1714, title 12, of the United States Code authorizes the states and their subdivisions to impose taxes on real property held by the Commissioner, we find no Congressional authority for imposing taxes on the federal government or its agencies as grantees under deeds of conveyance of real property. This being true, insofar as the United States or its agency named in the deed of conveyance is concerned, the United States and its agencies are immune from state taxation. The grantor in most, if not all, instances would not be an immune or exempt party and would appear to be subject to a documentary stamp tax, unless the deed of conveyance made by him is to an instrumentality or agency of the United States immune by Congressional consent.

Deeds conveying real property in Florida from a mortgagor of such property, or those claiming by, through or under him, to the United States, or one of its agencies, such as the Federal Housing Administration, in satisfaction or cancellation of the said mortgage and the obligation secured thereby, are not, as far as the United States or its agency is concerned, subject to state documentary stamp taxes, and such a deed of conveyance should be recorded by the proper clerk of the circuit court when presented to him by the United States or its agency, without requiring the affixing thereon of documentary stamp taxes.

When such a deed of conveyance is recorded without requiring documentary stamps the clerk should notify the State Comptroller, giving him a short description of the deed so recorded, and advising him of its record without the payment of stamp taxes thereof because it was to the United States or its agency as grantee and was offered for record by or for the United States or its agency. The State Comptroller may take such action thereon against the grantor as he may deem advisable under the circumstances for the collection from such grantor of a documentary stamp tax under ch. 201, F. S. A. G. 065-69.

201.021 Sur tax on documents relating to land; land acquisition trust fund.—

(1) A documentary sur tax, in addition to the tax levied in section 201.02, Florida Statutes, is levied on those documents taxed by section

201.02, Florida Statutes, at the rate of fifty-five cents (55¢) per five hundred dollars (\$500.00) of the consideration paid, provided when real estate is sold, the consideration, for purposes of this tax, shall not include amounts of existing mortgages on the real estate sold. If the full amount of the consideration is not shown on the face of the document, then the tax shall be at the rate of fifty-five cents (55¢) on each five hundred dollars (\$500.00) or fractional part thereof of the consideration.

(2) The comptroller shall pay all taxes collected under this section to the treasurer for deposits in the land acquisition trust fund. Sums deposited there may be used for any purpose for which funds deposited in the land acquisition trust fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this section.

Section 3. This act shall take effect January 1, 1968, or when the documentary stamp tax levied by the United States under Section 4361, Title 26, U. S. Code, with respect to conveyances is repealed and ceases to be levied, whichever date is later.

Filed in Office Secretary of State July 6, 1967.

Section 201.03 repealed by Chapter 57-107.

201.04 Tax on bills of sale, agreements, transfers, etc., of personal property and interests therein.—

(1) On all sales, agreements to sell or memoranda of sales or deliveries of, transfers of legal title to shares, or certificates of stock or profits or interest in property or accumulations in any corporation, or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock interest rights or not, on each one hundred dollars of face value or fraction thereof the tax shall be fifteen cents; and where such shares are without par or face value the tax shall be fifteen cents on each one hundred dollars of actual value or fraction thereof but not to exceed fifteen cents on each share; provided, that in case of sale, where evidence of transfer is shown only by the books of the corporation, the stamps shall be placed upon such books of the corporation; and where the change of ownership is by transfer of the certificate, the stamps shall be placed upon the certificates; and in case of an agreement to sell or where the transfer is made by delivery of the certificate assigned in blank, there shall

be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned, shall show the date thereof, the name of the seller, the amount of the sale, and the matter or things to which it refers. Any person or corporation liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or corporation, or who makes any such sale, or who in pursuance of any such sale, delivers any certificate or evidence of the sale of any stock, interest or right, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished accordingly.

(2) For the purposes of this section, the term stock includes corporate stock, shares however designated in a joint stock company, trust in the nature of a common law trust or Massachusetts trust, association or other trust in which the trustees are associated together in substantially the same manner as directors in a corporation for the purpose of carrying on a business enterprise. Such shares are declared to be personal property, and not interests in land, notwithstanding the nature of the property of which the trust shall consist, unless provided otherwise in the trust instrument.

History.—§1, ch. 15787, 1931; CGL 1936 Supp. 1279(111), 7473(4); §1, ch. 61-270; §2, ch. 63-533; (2) n. §1, ch. 63-488.
cf.—§775.07 Punishment for misdemeanor.

EXCISE TAX ON DOCUMENTS

RATE OF DOCUMENTARY STAMP TAX FOR STOCK

Sections 201.04 & 201.05

Amended by 1963 Session of Legislature

PAR VALUE STOCK

Original Issue or Reorganization (201.05)	Transfers or Sales (201.04)
Rate—15¢ per \$100.00 or fraction thereof of face value of the certificate	Rate and Tax same as Rate and Tax on original issue or reorganization
Examples:	
Certificate face value \$100.00, representing 100 shares @ \$1.00—Tax 15¢	
Certificate face value \$150.00, representing 150 shares @ \$1.00—Tax 30¢	
Certificate face value \$550.00, representing 5 shares @ \$110.00—Tax 90¢	

NO PAR VALUE STOCK

Original Issue or Reorganization (201.05)	Transfers or Sales (201.04)
RATE—15¢ per \$100.00 of actual value or fraction thereof of the certificate	RATE—15¢ per \$100.00 of actual value or fraction thereof of the certificate, but not to exceed 15¢ on each share
Examples:	
Actual value of certificate \$100.00 representing 100 shares @ \$1.00 value—Tax 15¢	
Actual value of certificate \$160.00 representing 4 shares @ \$40.00 value—Tax 30¢	
Actual value of certificate \$1,010.00, representing 10 shares @ \$101.00 value—Tax \$1.65	
Examples:	
Actual value of certificate \$100.00, representing 100 shares @ \$1.00 value—Tax 15¢ (share is valued at less than \$100.00 so tax is on value of the certificate)	
Actual value of certificate \$160.00, representing 4 shares @ \$40.00 value—Tax 30¢ (share is valued at less than \$100.00 so tax is on value of certificate)	
Actual value of certificate \$1,010.00, representing 10 shares @ \$101.00 value—Tax \$1.50 (share is valued at more than \$100.00 so tax is 15¢ on each share)	

COURT DECISIONS

Agreements to Sell.

An order to sell stock delivered by a customer in Florida to the manager of a Florida branch of a New York brokerage firm was not an agreement to sell. *Lee v. Bickell*, 54 S. Ct. 727, 292, U. S. 415, 78 L. Ed. 1337.

Collateral Agreement.

Collateral agreement whereby customer of broker opening marginal account deposits security may be subject to tax within State, as written obligation to pay money, made, executed, and delivered in State. *Bickell v. Lee*, D. C., 5 F. Supp. 720, modified in other respects, *Lee v. Bickell*, 54 S. Ct. 727, 292 U. S. 415, 78 L. Ed. 1337.

Construction and Application.

Liability of instrument to stamp duty, as well as amount of such duty, is determined by form and face of instrument and cannot be affected by proof of extrinsic facts. *Lee v. Kenan*, 78 F. 2d. 425, 100 A. L. R. 869.

Stockbrokers, Transactions with.

Local telegraphic reports of sales of stock on foreign exchange, whether delivered to local customers or not, receipts given to local customers for stock to be sold on foreign exchange, receipts given by local customers for stock bought on foreign exchange, and written orders from local customers to sell stock on foreign exchange held not subject to stamp tax imposed on "memoranda of sales or deliveries" and "agreements to sell" stock or stock certificates. *Lee v. Bickell*, 54 S. Ct. 727, 292 U. S. 415, 78 L. Ed. 1337, modifying *Bickell v. Lee*, 5 F. Supp. 720. In this case court said: "The scheme of the statute is to tax the transfer of shares of stock, whether executory or executed, by stamps to be affixed to those writings, and those only, which in a practical sense are the repository of the agreement or the instruments or vehicles for the ensuing change of title. Thus, if a transfer has been made and the only evidence of its making is on the books of the corporation, it is on such books and nowhere else that the stamps are to be placed. The statute does not say or mean that they shall be placed also upon the memoranda of the transaction in the office of the brokers or that there shall be an election to affix them either at one place or the other. Again, 'if the change of ownership is by transfer of the certificate' to a stated assignee, it is on the certificate and nowhere else that the stamps are to be placed. Only in two classes of cases is a different rule prescribed. 'In case of an agreement to sell' (as distinguished from an executed transfer) 'or where the transfer is made by delivery of the certificate assigned in blank,' then a memorandum in a prescribed form must be executed by the seller, and this prescribed memorandum is the one to be stamped. In brief, the memorandum of sale or delivery to be taxed under the statute, is not every note or entry made in Florida recording a transaction elsewhere. It is the kind of note or entry exacted by the statute where there is an executory agreement or a transfer by delivery, a note or entry to be handed by the seller to the buyer as an evidence of contract or as a muniment of title. If another view were to prevail, the tax could be multiplied repeatedly as a product of the same transaction. Not only the first memorandum would be taxable, but every copy of a copy, and every entry of the transaction in one book or in many. There is significance in the unwillingness of the comptroller to press his claim so far. Refusing to concede that he is not at liberty under the statute to tax as many entries as he can find, he has none the less chosen in the administration of his office to tax the same transaction only once. The choice supplies a gloss upon the intention of the lawmakers. It is an illuminating token that the memoranda to be taxed are the mandatory memoranda only, the customary sales tickets of the brokers, tickets subject to a tax in Florida if ancillary to a transaction consummated there, but free from

that burden if signed and delivered somewhere else. In this instance, the sales tickets were ancillary to a transaction consummated in New York where signed and delivered in that state, and when signed and delivered carried stamps in the amount required by the laws of New York and the laws of the United States. We perceive nothing in the law of Florida indicative of a purpose that other memoranda, not the repository of the contract nor exchange between the parties, should be subject to a tax anywhere."

State where sale of stock of Florida corporation has been made therein and transfer made on books of corporation within State may properly tax transfer as one made within State. *Bickell v. Lee*, D. C., 5 F. Supp. 720, modified in other respects, *Lee v. Bickell*, 54 S. Ct. 727, 292 U. S. 415, 78 L. Ed. 1337.

Transfer—No Par Value Shares.

The Supreme Court held that: "Where parent corporation transferred to subsidiary corporation 104 no par shares, which constituted all of outstanding capital stock of subsidiary, and subsidiary issued directly to stockholders of parent corporation the 104,000 shares of no par value stock which charter amendment authorized it to issue, there was no 'original issue' within contemplation of documentary stamp tax statute; but held that there was a taxable transfer of right to receive 104,000 shares of no par stock." *North American Company v. Green*, 120 So. 2d 603.

Stock—Original Issues and Transfers:

The Board of Directors of the Florida Power and Light Company met in New York City and authorized the issuance of 400,000 additional shares of common stock, including the 1,000 shares of stock issued and delivered in New York. All of the proceedings in connection with the creation, execution, signing, issuance and registration of the 1,000 shares of stock took place in the State of New York. Certificates were issued in New York and were not made, assigned, executed, issued, sold, removed, consigned or shipped in the State of Florida. The New York transfer agent delivered and was paid in full for the shares in New York where the owners thereof were listed upon the company's stock records. Copies of the stock lists were taken from the stock book and records maintained in New York and mailed to the Florida office.

The court held that the statutory requirement that copies of stock lists be maintained in the office of the Florida Power and Light Company in Florida would not have a material bearing upon the issuance of the stock certificates, nor was such step necessary in the valid issuance of said certificates. That the transfer is not, therefore, taxable in Florida because there is no definite link, connection or nexus between the State of Florida and the transfer of the stock certificates. *Florida Power & Light Company v. Ray E. Green*. Case No. 33,110 July 8, 1964.

COMPTROLLER'S RULINGS

Assignment of Stock as Collateral.

Where stock is assigned as collateral security and endorsed in blank, the proper documentary stamp tax is required. 31-32 Atty. G. R. 863.

Stock Subscription Contracts.

Stock subscription contracts which contain provisions for acceleration of installment payments in case of a default and an option to the seller to waive unpaid balance and issue stock for the amount paid in, in lieu of enforcing full payment, are subject to the proper documentary stamp tax. A. G. 057-328.

Capital Stock Voting Trust Certificates.

Where holders of shares of capital stock of a corporation enter into a voting trust agreement with three voting trustees, such voting trust agreement is subject to the proper documentary stamp tax. 41-42 Atty. G. R. 215.

Exchange of Par Value for No Par Common Stock.

Where the exchange of no par value stock is issued in lieu of par value common stock, no stamp tax is due when such exchange does not effect a change in ownership of the stock or any interest in the corporation. When any additional shares of stock of no par value over and above those which are exchanged are issued, such additional shares are subject to the proper documentary stamp tax. 33-34 Atty. G. R. 42.

Stock Certificates Issued by a Foreign Corporation.

Stock certificates issued without the State of Florida by a foreign corporation do not require documentary stamps at the time of issuing, but on all sales, agreements to sell or memoranda of sale, or delivery or transfer of legal title to shares of certificates of stock in any corporation made in the State of Florida, the proper amount of documentary stamp tax must be attached. Letter February 5, 1932.

Stock in a Corporation Not for Profit.

Transfer of stock shares in a corporation of this State is subject to the documentary stamp tax whether the corporation is a corporation for profit or not for profit. Letter September 30, 1933.

Stock in Foreign Corporation Transferred to Legatees by Personal Representative.

Where stock in a foreign corporation is transferred to legatees by the representative of an estate being administered in Florida, such transfers made by the representative of such estate is subject to the proper documentary stamp tax. 43-44 Atty. G. R. 226.

Stock Transactions in the State.

If there is a memorandum made by the broker of the sale of stock or if there is a memorandum made by the broker of the delivery of stock and such memorandum is made or delivered in Florida, then such memorandum must bear the proper documentary stamps. If no such memorandum of either sale or delivery is made or delivered in Florida, then of course no documentary stamp is required. 31-32 Atty. G. R. 899.

Stock Transactions Outside of the State.

If an owner of stock, who is in Florida, or his agent, who is in Florida, gives an order for the sale of stock in another State, and if no memorandum of the same is made and the stock is sold in another State and delivered in another State to the owner or the owner's agent, then the transaction requires no documentary stamps, for the reason that it is a completed transaction without the State of Florida. If, however, such stock having been sold in another State has to be transferred on the books of the corporation in Florida because of its being a Florida corporation, then the documentary stamp is required on such transfer. 31-32 Atty. G. R. 899.

Stock Transfer from One Trustee to Another Outside of State.

The transfer of stock in a corporation from one trustee to another trustee which takes place outside of the State of Florida does not require documentary stamps to be affixed unless a memorandum of such transfer is made or delivered in Florida, or unless the transfer has to be entered on the books of the corporation in Florida because of its being a Florida corporation. 31-32 Atty. G. R. 359.

Stock Transferred Pursuant to Corporate Consolidation.

Where Corporation A holds shares of stock of Corporation B and Corporation A consolidates with Corporation B and the stock of Corporation B is issued to

the owners of stock of Corporation A or trustees for said owners, such stock is so issued subject to the Florida documentary stamp tax. 43-44 Atty. G. R. 228.

Stock Transfers by Customer from One Broker to Another.

Where shares of stock are held by the customer of a regular stock broker and are registered in the name of the stock broker or his nominee, and the customer decides to transfer his account from one broker to another, with no change of beneficial interest in such shares of stock—the corporation so requested transferring the shares of stock on the corporate stock records from the name of the nominee of the first broker to the name of the nominee of the second broker—such transfer constitutes a transfer of the legal title to the shares of stock in question. Therefore, the required documentary stamp tax must be affixed. 47-48 Atty. G. R. 226.

Transfers and Assignments to Trustees.

In those instances where certain assets consisting of lands, judgments, notes secured by mortgage, crop lien and certificates of stock of a corporation are about to be transferred to trustees under the terms of a trust agreement whereby the trustees are not buying the assets and are taking title thereto only for the purpose set forth in the trust instrument, the following instruments involved in such a transaction are subject to the documentary stamp tax: deeds transferring or conveying the title to lands, assignments of judgments, crop liens and mortgages, the tax on such instruments is measured by the consideration for the transfer, conveyance or assignment. In these cases the amount of stamp tax would be 30¢ on the deeds. The tax on transfer or assignment of shares of stock is measured by the face value of the stock. 33-34 Atty. G. R. 45.

Transfers of Shares of Stock from a Deceased Person to the Estate.

Transfer of the legal title to shares of stock from a deceased person who is domiciled in Florida at the time of his death and whose estate is being administered by a Florida Court, to such deceased person's Executor is a transfer by operation of Law, and therefore such transfer does not require documentary stamps. 35-36 Atty. G. R. 26.

Transfer of Stock by Certificate.

In view of the wording of Section 201.04, where evidence that the transfer of stock is shown by certificates, the stamps shall be attached to the certificate instead of the books of the corporation. 31-32 Atty. G. R. 891.

Transfer of Stock from Executor to Himself as Testamentary Trustee.

The transfer from the Executor of a Will to himself as testamentary trustee of shares of capital stock of a Florida corporation is subject to the proper documentary stamp tax. 31-32 Atty. G. R. 1053.

Transfer of Stock Held by a Dissolved Corporation.

Corporation A holds stock of Corporation B. Corporation A is dissolved and the assets of the corporation are distributed to its stockholders. The shares of stock of Corporation B which were held by Corporation A are transferred to the stockholders of Corporation A. Such transfers are subject to the proper documentary stamp tax. 37-38 Atty. G. R. 505.

Transfers of Stock in Private Corporation to a Trustee.

Transfers of stock to a Trustee for certain purposes are subject to the documentary stamp tax; then re-transfers by the Trustee after the purposes of the trust have been accomplished are also subject to the documentary stamp tax. Letter December, 1932.

Stock Issues to Florida Corporations.

Where a Michigan corporation owning stock in a Florida corporation becomes a corporation under the laws of Delaware, with the same stockholders, officers, assets, liabilities, etc., there would be a transfer of the certificate of stock in the Florida corporation which would be subject to the proper documentary stamp tax when the stock is transferred upon the Florida corporation records in this state. However, if the corporate entity of the Michigan corporation has been taken into Delaware and reincorporated without any change in entity, then there would be no transfer of stock, merely a change in name. A. G. 055-30.

Stock Transfer by Will.

Where, by last will and testament, a decedent bequeaths to a named beneficiary shares of corporate stock owned by him, the transfer of such corporate stock to the beneficiary is subject to the proper documentary stamp tax. It is noted that the documentary stamp tax imposed by Section 201.04 F. S. is based upon the par value of the corporate stock, or the number of shares of no par value stock, and is therefore distinguishable from the taxes imposed under Section 201.02 F. S., which is based upon consideration paid for real property, or an interest therein. 55-56 Atty. G. R. 313.

Stock of Foreign Corporation Delivered in Florida.

Certificates of stock in a foreign corporation are delivered in Florida. They are not subject to documentary stamp taxes if title to the shares does not pass in Florida, but passes only when entered on the books of the foreign corporation. Transactions in this state must then be disregarded. If the state in which the foreign corporation is located has adopted the uniform stock transfer act, as Florida has, the stamp tax then applies, and the transfer on the corporation books is not necessary to pass title; the transfer is complete in Florida under the foreign law. 55-56 Atty. G. R. 913.

Stock Transfers upon Death of Sole Trustee.

When, by reason of the death or resignation of a sole trustee, or one of two or more trustees, shares of corporate stock held by the trust are transferred to the successor-trustee, or the surviving trustee, such transfer is not subject to the documentary stamp tax, because when a new or successor-trustee is selected or appointed the trust property vests in him by operation of law. 55-56 Atty. G. R. 942.

No Par Value Stock Transferred to Named Persons.

Where the owner of shares of no par value corporate stock in a domestic corporation surrenders such stock to the corporation with instructions to issue substitute par value stock to certain named persons in lieu thereof, the par value stock certificates are subject to the proper documentary stamp tax. A. G. 057-83.

Changing No Par Value Stock to Par Value.

A Florida corporation, with an authorized capital of 1000 shares of no par value stock, of which 104 shares were outstanding, amended its charter and increased its authorized capital to 104,000 shares of no par value stock, and upon the completion of said amendment called in the said 104 shares of outstanding stock and issued in lieu thereof 104,000 shares of no par value stock, the said 104,000 shares of no par value stock are subject to proper documentary stamp taxes.

Where the owners of said 104 shares of no par value stock surrendered the same in exchange for 104,000 shares of said stock, instructing that the reissued stock be issued and delivered to another, the issue of the new stock in connection with the reorganization was an original issue of stock under Section 201.05 and not a transfer under Section 201.04 F. S. A. G. 057-101 Revised.

Transfers of Stock of Florida Corporation in Another State.

Where outstanding shares of stock in a Florida corporation are transferred in another state, which transfers are registered on transfer records in a state other than the State of Florida, such transfers of stock are not subject to the Florida documentary stamp tax. A. G. 058-75.

Taxation of Stock Voting Trust Arrangements.

Transfers of shares of corporate stock to a trustee under a voting trust arrangement are subject to taxation under Chapter 201, Florida Statutes; but the voting trust certificates, not being an original issue of stock, are not subject to taxation under said Chapter. A. G. 059-230.

Exchange of Stock.

Where Cumulative Convertible Preferred stock and six percent Preferred stock are exchanged for Class "A" Common stock, of a corporation existing under the laws of this state, being a mere transformation of the existing and outstanding issued stock, by way of re-classification, split-up, or exchange of par value stock for no par value stock, or one class of stock for another class, whereby the corporation does not acquire any new capital or add any of its earned surplus to its capital account, documentary stamp tax is not required. A. G. 059-257.

Taxes; On Sale of Corporate Stock.

A Cash Customer's Agreement, a Customer's (Margin) Agreement, and the execution of a stock assignment in blank completed in this state, are all subject to a documentary stamp tax under Chapter 201, Florida Statutes. A. G. 060-89.

Nominees.

Where corporate stock is issued in the name of the nominee of a depository, for subsequent transfer to the person entitled thereto, such transaction is within the purview of Chapter 201, Florida Statutes, and subject to a documentary stamp tax upon the transfer to the nominee of the depository, although he held no beneficial interest in the securities while standing in his name as nominee. A transfer from said nominee to the owner of the securities would be another transfer under the Florida Statute. A. G. 060-194.

Merger or Consolidation of Corporations; etc.

Refer to opinion 061.57, April 5, 1961 printed in full under Section 201.05.

Computation of Tax on Stock Transfers under Section 201.04, Florida Statutes.

The usual stock purchase transaction will constitute a transfer upon the books of the corporation, where that evidence "is shown only upon the books of the corporation," so that documentary stamp taxes imposed under Section 201.04, Florida Statutes, would be upon the certificate issued to the transferee, and not upon the certificates surrendered to the transfer agent, by the transferor or transferors. However, this may, depending upon the facts in each case, not be the only taxable transaction taking place in this state in connection with the transaction. Should the bank, broker or other agent in order to obtain the stock for delivery to its customer, purchase the stock in this state for his or its own account, and by independent transaction sell the same to the customer, there would be an intervening taxable transaction. A. G. 061-98.

Foreign Corporations; Transfers of Stock in Other States; Transfer Records.

Where stock of a foreign corporation is transferred in a state other than that of its domicile and a record of such transfer is entered on the transfer records of such corporation located in this state, such a transfer of stock is not subject to documentary stamp taxes in this state, since the entry on the records in Florida is not necessary to complete the transfer. A. G. 062-25.

Corporate Stock Transactions; Nominees and the Like.

A transfer of corporate stock from a corporation, or from its customer, to a nominee, or from the nominee to the corporation or its customer, is subject to documentary stamp taxes. A. G. 062-75.

Interlocking Corporate Interests and Subsidiaries.

(1) Deeds of conveyance from a parent corporation to its subsidiary corporation, or from an individual to a corporation, even where such individual owns all the stock of such corporation, and otherwise to a corporation, are of property "granted, assigned, transferred or otherwise conveyed to or vested" in such corporation, within the purview of Section 201.02, Florida Statutes, and are subject to the tax imposed by said section, if such conveyances are made for a consideration, passing from the grantee to the grantor, which has some value measured in money of the United States. (2) Where a conveyance from a corporation to its subsidiary corporation is made resulting in an increase of the actual value of the stock of the subsidiary corporation, such transaction is a taxable one. (3) A conveyance from stockholders of a corporation to said corporation, as a contribution to capital, will result in an increase of the value of the outstanding corporate stock affected, and is a taxable transaction. A. G. 063-18.

Stock Transactions.

When deeds from privately owned corporations to officers or stockholders of such corporation, subject to documentary stamp taxes are: (1) Stock is surrendered therefor and the corporation continues; (2) no stock is surrendered therefor and the corporation continues; (3) stock is surrendered and the real estate is encumbered by lien or mortgage and the corporation continues; or (4) no stock is surrendered and the real estate is encumbered by lien or mortgage and the corporation continues, the general criteria being whether or not there has been a detriment to the seller and a monetary benefit to the purchaser or vice versa; if so there is a taxable transaction. A. G. 063-107.

Stock Issued by Professional Service Corporations.

Corporate stock in a professional service corporation is subject to documentary taxes under Section 201.05, F. S., as to its original issue and under Section 201.04 as to its transfers. A. G. 064-30.

201.05 Tax on stock certificates.—On each original issue, whether organization or reorganization, of certificates of stock or shares however designated issued in the state, or certificates of profits, or of interest in property or accumulations, by any corporation or by any joint stock company or other association as set forth in §201.04, on each one hundred dollars of face value, or fraction thereof, the tax shall be fifteen cents; provided, that where a certificate is issued without face value, the tax shall be fifteen cents on each one hundred dollars of actual value or fraction thereof. The stamps representing the tax imposed by this section shall be attached to the stock books, and not to the certificates issued.

History.—§1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); §1, ch. 61-270; §2, ch. 63-488; §3, ch. 63-533.

EXCISE TAX ON DOCUMENTS

RATE OF DOCUMENTARY STAMP TAX FOR STOCK

Sections 201.04 & 201.05

Amended by 1963 Session of Legislature

PAR VALUE STOCK

Original Issue or Reorganization (201.05)	Transfers or Sales (201.04)
<p>RATE—15¢ per \$100.00 or fraction thereof of face value of the certificate</p> <p>Examples: Certificate face value \$100.00, representing 100 shares @ \$1.00—Tax 15¢ Certificate face value \$150.00, representing 150 shares @ \$1.00—Tax 30¢ Certificate face value \$550.00, representing 5 shares @ \$110.00—Tax 90¢</p>	<p>Rate and Tax same as Rate and Tax on original issue or reorganization</p>

NO PAR VALUE STOCK

Original Issue or Reorganization (201.05)	Transfers or Sales (201.04)
<p>RATE—15¢ per \$100.00 of actual value or fraction thereof of the certificate</p> <p>Examples: Actual value of certificate \$100.00 representing 100 shares @ \$1.00 value—Tax 15¢ Actual value of certificate \$160.00 representing 4 shares @ \$40.00 value—Tax 30¢ Actual value of certificate \$1,010.00, representing 10 shares @ \$101.00 value—Tax \$1.65</p>	<p>RATE—15¢ per \$100.00 of actual value or fraction thereof of the certificate, but not to exceed 15¢ on each share</p> <p>Examples: Actual value of certificate \$100.00, representing 100 shares @ \$1.00 value—Tax 15¢ (share is valued at less than \$100.00 so tax is on value of the certificate) Actual value of certificate \$160.00, representing 4 shares @ \$40.00 value—Tax 30¢ (share is valued at less than \$100.00 so tax is on value of certificate) Actual value of certificate \$1,010.00, representing 10 shares @ \$101.00 value—Tax \$1.50 (share is valued at more than \$100.00 so tax is 15¢ on each share)</p>

COURT DECISIONS

Tax on the Transaction.

The documentary stamp tax is a tax on the transaction itself, rather than upon the privilege of engaging in the transaction. F. S. A. §201.07. State ex rel. Peninsular Telephone Company v. Gay, 90 So. 2d 132.

Transfer—No Par Value Shares.

The Supreme Court held that: "Where parent corporation transferred to subsidiary corporation 104 no par shares, which constituted all of outstanding capital stock of subsidiary, and subsidiary issued directly to stockholders of parent corporation the 104,000 shares of no par value stock which charter amendment authorized it to issue, there was no 'original issue' within contemplation of documentary stamp tax statute; but held that there was a taxable transfer of right to receive 104,000 shares of no par stock." North American Company v. Green, 120 So. 2d 603.

Stock—Original Issues and Transfers.

The Board of Directors of the Florida Power and Light Company met in New York City and authorized the issuance of 400,000 additional shares of common stock, including the 1,000 shares of stock issued and delivered in New York. All of the proceedings in connection with the creation, execution, signing, issuance and registration of the 1,000 shares of stock took place in the State of New York. Certificates were issued in New York and were not made, assigned, executed, issued, sold, removed, consigned or shipped in the State of Florida. The New York transfer agent delivered and was paid in full for the shares in New York where the owners thereof were listed upon the company's stock records. Copies of the stock lists were taken from the stock book and records maintained in New York and mailed to the Florida office.

The court held that the statutory requirement that copies of stock lists be maintained in the office of the Florida Power and Light Company in Florida would not have a material bearing upon the issuance of the stock certificates, nor was such step necessary in the valid issuance of said certificates. That the transfer is not, therefore, taxable in Florida because there is no definite link, connection or nexus between the State of Florida and the transfer of the stock certificates. Florida Power & Light Company vs Ray E. Green. Case No. 33,110 July 8, 1964.

COMPTROLLER'S RULINGS

Certificates of Membership in Non-profit Country Club.

Certificates of membership to its members evidencing such member's rights in the property of a County Club, are not subject to the documentary stamp tax. 49-50 Atty. G. R. 258.

Cooperative Apartment Leases.

Where a proprietary lease of a cooperative apartment building, located in this state, requires that persons leasing apartments in such building to purchase a sum certain in the corporate stock of the owning corporation and pay annual sums, such lease to the extent that it contains a present obligation to pay a sum or sums certain in money, that is to purchase corporate stock, is subject to the proper documentary stamp tax, but insofar as it contains promises to pay moneys, the sums of which may not be determined at this time and may only be determined in the future, it is not subject to documentary stamp tax for that part. When the stock is issued, the stock must bear the proper documentary stamp tax. 47-48 Atty. G. R. 231.

Installment Payments on Stocks.

Where a corporation issues a receipt for installments paid on shares in amount under \$100.00 with the understanding that when this amount reached \$100.00 a certificate of \$100.00 would be issued and the required documentary stamp attached, such receipt must bear the proper documentary stamp tax, as the Law provides that the tax is 15¢ on each \$100.00 or fraction thereof. Any receipt or certificate issued by a corporation which evidences an interest in the profits or property or accumulations of the corporation comes within the terms of the statute and will have to have proper stamps attached. 31-32 Atty. G. R. 829.

Investing Members Subscription to Installment Stock.

An installment agreement to purchase stock is subject to the proper documentary stamp tax. 31-32 Atty. G. R. 278.

Re-issue of Stock Certificate to Same Stockholder, Reducing Par Value.

Where a corporation reduces the par value of its stock and issues new stock certificates that simply amounts to re-issue, no documentary stamp tax is required for the reason that the Act provides that stamps are required on each original issue, whether organization or reorganization of certificates of stocks issued in the State of Florida. Letter July 11, 1933.

Re-issue of Stocks to Owner of Original Issue.

The stamp tax on stock is on the original issue. Re-issue of stock held and owned by the same person to whom the original stock was issued does not require documentary stamps provided the stock when first issued carries the proper documentary stamps. 31-32 Atty. G. R. 378.

Stock Certificates Issued by a Foreign Corporation.

Stock certificates issued without the State of Florida by a foreign corporation do not require documentary stamps at the time of issuing, but on all sales, agreements to sell or memoranda of sale, or delivery or transfer of legal title to shares of certificates of stock in any corporation made in the State of Florida, the proper amount of documentary stamps must be attached. Letter February 5, 1932.

Subscribing Member for Installment Stock.

Where a person becomes a member subscribing for installment stock and is issued a membership certificate as evidence of the fact that he is a member and has subscribed for a number of shares of stock to be paid for by installments and has paid the required membership fee, such membership or subscription certificate is subject to the proper documentary stamp tax. Later, when such installments are paid in full and a stock certificate is issued, the full amount of the documentary stamp tax is due thereon. 31-32 Atty. G. R. 857.

Stock Increased by Corporations.

Where a Florida corporation upon organization pursuant to the charter issues shares of stock having a par value of a certain amount and then subsequent to the issuance of said stock the corporate charter is amended changing the par value of such outstanding stock from one amount per share to a larger amount per share (for example, from \$1.00 to \$25.00 per share) and a rider is issued by the corporation to the stockholders evidencing the change in the value of the shares of stock, this instrument, as well as the certificate of increased value of stock on file with the Secretary of State constitutes certificate of profit or interest in property, or accumulation within the purview of Section 201.05, Florida Statutes, and is subject to documentary stamp taxes. The certificate aforesaid would have a value of the difference between the original stock and the increased value. A. G. 058-93.

Exchange of Stock.

Where Cumulative Convertible Preferred stock and six per cent Preferred stock are exchanged for Class "A" Common stock, of a corporation existing under the laws of this state, being a mere transformation of the existing and outstanding issued stock, by way of re-classification, split-up, or exchange of par value stock for no par value stock, or one class of stock for another class, whereby the corporation does not acquire any new capital or add any of its earned surplus to its capital account, documentary stamp tax not required. A. G. 059-257.

Merger or Consolidation of Corporations; etc.

Section 201.04, Florida Statutes, imposes an excise tax "on all sales, agreements to sell, or memoranda of sales or deliveries of, transfers of legal title to shares, or certificates of stock . . ." Section 201.05, Florida Statutes, imposes an excise tax "on each **original issue**, whether **organization** or **reorganization**, of certificates of stock issued in the state . . ." Section 4301, title 26, of the United States Code, imposes a like tax on "each original issue of shares or certificates of stock, issued by a corporation, whether on organization or reorganization . . ." Section 4321, title 26, of the United States Code, imposes an excise tax on "each sale or transfer of shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation . . ." The Federal Statutes on the same subjects have been quoted from for the purpose of comparing the Florida and Federal statutes, from which the Florida Statutes were originally derived. Chapter 15787, laws of Florida, acts of 1931, from which chapter 201, Florida Statutes, was largely derived, was largely taken from the Federal Statute, so that it takes "the same construction in the Florida courts as its prototype has been given in the Federal courts, in so far as such construction is not inharmonious with the spirit and policy of our own legislation upon the subject." (State v. Cook, 108 Fla. 157, 146 So. 223, text 224; and see also Gay v. Inter-County Telephone and Telegraph Company, Fla., 60 So. 2d 22, text 23).

Original issue, of corporate stock, and **organization** and **reorganization** of corporations are mentioned and referred to in above §201.05, Florida Statutes. In North American Company v. Green, Fla., 120 So. 2d 603, text 607, the Court remarked that "we have the view that there can be no **original issue** of stock by an existing corporation unless there is an actual increase of the capital structure. In other words, to constitute an original issue of the stock **must represent newly dedicated capital**. Where new shares are issued merely to effect a stock split-up as distinguished, for example, from a stock dividend, no taxable original issue comes into being." Original issue, as used in the Federal statutes, indicates that, to be taxable under the Federal stamp taxing statutes, stock certificates must be, in point of time, first issued. (U. S. v. Pure Oil Company, CCA Ill., 135 Fed. 2d 578, text 579). New classes of stock representing previously dedicated capital, such as new shares or certificates issued merely to effect a stock split-up, or to convert outstanding common to preferred, or preferred into common, or par to no-par, are not **original issues**. (Crown Zellerbach Corporation v. Anglim, DC Cal., 109 Fed. Supp. 514, text 515).

Reorganization of a corporation is the reconstruction or rehabilitation of an existing corporation; sometimes defined to be the process by which a corporation is organized anew, "usually effected by the dissolution of one and the organization of a new corporation to take the property and franchise of the first and to continue its business. . . . It has been held that where a new corporation is formed by stockholders and directors of an existing corporation, and its directors and practically all its stockholders, franchises and property are identical with those of the old corporation, the transaction both in fact and in law amounts to a reorganization of the old corporation." (19 C. J. S. 1318, §1578). Corporations may be reorganized by the incorporation of a new corporation or by amendment of its charter (19 C. J. S. 1320, §1581).

Consolidation of corporations occurs where the rights, franchises and effects of two or more corporations are united in a single corporation, the stockholders of which are, so far as they choose to become such, composed of those corporations so uniting, however, the term is eclectic (19 C. J. S. 1364, §1603). "A true consolidation, which exists where a new corporation springs into existence to assume the liabilities of the former corporations and the prior corporations are dissolved and cease to exist, should be distinguished from merger, which 'means something more than a mere consolidation' and which exists where one corporation is continued and the others are merged in it without the formation of a new corporation. A consolidation is also to be distinguished from a dissolution; (and) from a reorganization . . . arising from the formation of a new corporation" but continuing the old business under a new name" (19 C. J. S. 1364, §1604).

Merger, as applied to corporations, is the union of two or more corporations by the transfer of property of all to one of them, which continues in existence, the others being swallowed up or merged therein. It differs from a consolidation wherein all the corporations terminate their existence and become parties to a new one (Black's Law Dictionary, 4th Ed., page 1140). A merger of corporations consists of a combination whereby one of the constituent companies remains in being, absorbing or merging in itself all the other constituent corporations. (13 Am. Jur. 1086, §1176).

It appears from what is before us that some seven or more corporations were involved in the mergers or consolidations here involved. The original corporation was organized around 1927, having changed its name around 1935. Another corporation was organized around 1950, having changed its name around 1953. These corporations appear, from the records of the Secretary of State, to have merged into a single corporation, retaining the name of one of the merged corporations, in 1954, at which time another existing corporation was merged with them. In 1957, three other existing corporations were merged with the said corporation, the merged corporation retaining the name of the corporation with which said other corporations were merged. The records of the Secretary of State indicate that said corporations were merged, no reference being made in said records to indicate a consolidation or reorganization instead of a merger. With the facts before us, we must presume that said corporations were merged and that there was no reorganization; however, should it be determined upon any further examination of the books and records that there was in fact a reorganization within the above definition, then the facts when applied to the definitions above should control over our tentative determination from the limited facts before us. We proceed for the present upon the assumption that there were mergers and not a reorganization of the corporations.

No attempt is here made to make an audit of the documentary stamp taxes due, if any, by the existing corporation, for shares of stock originally issued by it since the merger, or by it and any of the corporations merged with it prior to merger, for which it would appear to be liable. We shall here deal only with shares of stock issued, either as original issues or as transfers, at the time of the mergers and in connection therewith. In connection with a merger of two or more corporations there is no purchase of the property, by the continuing corporation, of the merging corporations, this because the property of the merging corporations is swallowed up or merged with the continuing corporation. The continuing corporation acquires the property of the merging corporations, and, at the same time, assumes and becomes liable for their obligations. There is no new corporation, as there may be in the case of a consolidation of corporations. Only such stock as tended to increase the capital stock of the merged corporation may be considered as an **original issue of capital stock**. To constitute an original issue of capital stock, such capital stock must represent **newly dedicated capital** not merely the transfer of existing capital. When the corporations were merged, the total outstanding capital stock of each of the merged corpora-

tions, as well as that of the continuing corporation, became the obligation of the continuing corporation, although standing in the names of the merged corporations. The calling in of such stock standing in the name of the merged corporations, and the issuance of stock in the name of the continuing corporation, were not the issuance of **original stock** within the purview of §201.05, Florida Statutes, unless the same represented additional capital to the amount of the merged capital. Only such original stock as represented newly dedicated capital would seem to be taxable under §201.05, Florida Statutes. If the taxes payable under §201.05, Florida Statutes, had been paid prior to or at the time of the merger, and no stock representing newly dedicated capital has been issued since said merger, then it would seem that no taxes under said §201.05, would now be due.

We come next to the application of §201.04, Florida Statutes, to the stock issued by the continuing corporation to the stockholders of the merged corporations for and in lieu of the stock held by them in the **merged corporations**. It is our view that the outstanding stock in the merged corporations, after the merger is complete, becomes the obligation of the continuing corporation. After the merger, the relationship between the stockholder and the continuing corporation is the same as between the stockholder and the issuing corporation prior to merger. It is presumed that no newly dedicated capital will be represented by the stock issued by the continuing corporation for and in lieu of stock issued by the merged corporations. The Florida and Federal statutes in this connection being substantially the same, the Federal Tax Regulations adopted in conformity with the Federal Statutes and bearing upon the same question would seem to be of assistance here. Attention is directed to subsection (a) of regulation 43.4321-2, providing that Federal excise taxes are imposed on the following transactions concerning treasury stock:

“Transfer upon a merger from the name of a merging corporation of stock owned by it to the name of the continuing corporation. Similarly, upon a consolidation, a transfer from any of the consolidating corporations to the consolidated corporation.”

“In addition to the tax on the issuance of stock in connection with a merger or consolidation, where such stock is issued directly to the stockholders of the merging or consolidating corporations by the continuing or consolidated corporation, there is also a transfer tax imposed at the time of the issuance of such stock. The transfer tax is applicable to such a transaction inasmuch as there is involved the transfer to the stockholders of the merging or consolidating corporations of such corporations' right to receive the stock of the continuing or consolidated corporation.”

And the following provisions of subsection (b) of said regulation providing that no taxes are due where,

“In a consolidation of corporations, the surrender of stock of any of the consolidating corporations in exchange for stock of the consolidated corporation.”

“In a merger of corporations, the surrender of stock of both the merging and the continuing corporations in exchange for stock of the continuing corporation.”

The merger of the several corporations into a single corporation, usually referred to as the continuing corporation, results in a single corporation through such merger, and no newly dedicated capital results from the usual merger. Where no newly dedicated capital results from the merger the mere issuance of stock, in the name of the continuing corporation, to the stockholders of the merged corporations representing no change in dedicated capital, such transaction is not a taxable sale or transfer within the purview of §201.04, Florida Statutes.

We do not here appear to be concerned with a consolidation of two or more corporations into a newly formed corporation, such as were held taxable in *Raybestos-Manhattan v. United States*, 296 U. S. 60, 56 S. Ct. 63, 80 L. ed. 44, 102 A. L. R. Ill.; *Niagara Hudson Power Corporation v. Hoey*, CCA N. Y., 117 Fed. 2d 414; *Koppers Coal and Transportation Company v. United States*, CCA Pa., 107 Fed. 2d 706.

The term **treasury stock** means ordinary corporate stock duly issued and outstanding which has been acquired by the corporation by purchase, gift or otherwise; this term includes the stock of a corporation previously issued and outstanding which it has acquired and holds as assets (13 Am. Jur. 318, §199; 18 C. J. S. 645, §212; 42A Words and Phrases, 40-43).

We, therefore, conclude that where two or more corporations are merged into a single corporation, being one of the merging corporations usually referred to as the continuing corporation, without the dedication of newly committed capital, no taxes are payable under either §201.04 or 201.05, Florida Statutes. Where a new and additional corporation is formed, stock issued by it in lieu of stock in the merged or consolidated corporations would seem to be an original issue of stock. Any additional capital, not previously dedicated, brought in through or in connection with a merger or consolidation, would seem to be an additional issuance of capital stock so that the portion of the stock representing such additional capital would be subject to taxation. A. G. 061-57.

Stock Dividends and Stock Splits; Original Issues.

(1) Certificates of corporate stock, issued as stock dividends to existing stockholders are an original issue of stock subject to the excise tax imposed by Section 201.05, Florida Statutes. (2) Certificates of corporate stock, issued in connection with a stock split or similar transaction are not an original issue of stock subject to the excise tax imposed by said Section 201.05, Florida Statutes. A. G. 063-7.

Stock Issued by Professional Service Corporations.

Corporate stock in a professional service corporation is subject to documentary taxes under Section 201.05, F. S., as to its original issue and under Section 201.04 as to its transfers. A. G. 064-30.

Section 201.06 repealed by Chapter 57-107.

201.07 Tax on bonds, debentures and certificates of indebtedness.—On all bonds, debentures, or certificates of indebtedness issued in the state by any person, and all instruments and documents, however termed, issued by any corporation with interest coupons or in registered form, on each hundred dollars of the face value or fraction thereof, the tax shall be fifteen cents; provided, however, that only that part of the value of the bonds, debentures, or certificates of indebtedness issued by any such person, the property of which is located within the state shall bear to the whole value of the property described in said instrument or obligation shall be taxed hereunder.

History.—§1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); §4, ch. 63-533.

COURT DECISIONS

Florida Corporation Bonds Issued in Another State.

Where all steps in the issuance of bonds by Florida corporation took place out of the state, the transaction was not subject to the documentary stamp tax. F. S. A. §201.01, 201.07, 215.26, 608.19, 621.35 State ex rel. *Peninsular Telephone Company v. Gay*, 90 So. 2d 132.

COMPTROLLER'S RULINGS

Bonds—Amount of Tax.

Tax on bonds is measured by the face value of the bond regardless of whether sold at depreciated price. 31-32 Atty. G. R. 835.

Bonds Executed, Sold and Delivered Outside the State of Florida.

Bonds issued, delivered, sold, transferred or assigned outside of the State of Florida by a corporation (not organized under the laws of Florida) and secured by a mortgage on lands located in Florida and in other States, are not subject to the documentary stamp tax. 35-36 Atty. G. R. 26.

Bonds Issued by a Church.

Bonds or refunding bonds issued by a church corporation secured by trust deed are subject to the documentary stamp tax. 31-32 Atty. G. R. 396.

Bonds Issued by a County or Municipality.

The sale, transfer or assignment of bonds issued by a County or municipality is not subject to the documentary stamp tax. 35-36 Atty. G. R. 33.

Certificates Issued by Citrus Growers Association.

Certificates issued by the Citrus Growers Association affiliated with the Florida Citrus Exchange are written obligations for the payment of money and are subject to the proper documentary stamp tax. Letter January 23, 1933.

Indebtedness of Governmental Agency.

All notes, bonds, mortgages, deeds and other evidences of indebtedness issued, sold, transferred, assigned or delivered by any State, County or subdivision thereof, or municipality, all being Governmental agencies, are exempt from the documentary stamp tax. This also applies, of course, to such documents and instruments issued by the Federal Government and its agencies. 31-32 Atty. G. R. 889, 892.

Mortgage Securing a Certificate of Indebtedness.

A mortgage securing certificate of indebtedness does not require documentary stamp tax if certificate of indebtedness is a separate instrument, but the certificate of indebtedness itself must have the requisite stamps attached. Letter March 17, 1932.

Trust Deed or Mortgage Given to Secure Bonds or Notes.

Where a trust deed or mortgage is given to secure bonds or notes, the required documentary stamps should be placed upon the bonds or notes and a notation made on the margin of the trust deed or mortgage reciting the fact that the documentary stamps have been attached to such bonds or notes. 31-32 Atty. G. R. 864; 43-44 Atty. G. R. 223.

Effect of Increased Interest Upon Section 201.09, Florida Statutes.

That under the provisions of Section 201.09, Florida Statutes, an increase in the rate of interest in a note extending or renewing an existing one does not require the payment of an additional tax under Section 201.08, Florida Statutes. A. G. 059-11.

201.08 Tax on promissory notes, written obligations to pay money, assignments of wages, etc.—

(1) On promissory notes, non-negotiable notes, written obligations to pay money, assignment of salaries, wages, or other compensation,

made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same on each one hundred dollars of the indebtedness or obligation evidenced thereby, the tax shall be fifteen cents on each one hundred dollars or fraction thereof. Mortgages which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate.

(2) On promissory notes, non-negotiable notes, written obligations to pay money, or other compensation, made, executed, delivered, sold, transferred, or assigned in the state, in connection with sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser, the tax shall be fifteen cents on each one hundred dollars or fraction thereof of the gross amount of the indebtedness evidenced by said instruments, payable quarterly on such forms and under such rules and regulations as may be promulgated by the comptroller. No documentary stamps shall be required to be attached to instruments under the provisions of this subsection.

History.—§1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); §1, ch. 28216, 1953; (1) §1, (2) §2, ch. 61-277; §5, ch. 63-533.

COURT DECISIONS

Advertising Contracts.

Agreements whereby newspapers secured advertising space to customers who agreed to pay for space, after advertising had been run on sliding scale, according to amount of space used, held not subject to documentary excise tax, since agreements were in their face merely executory agreements to purchase space, and did not fix a debt. *Metropolis Pub. Co. v. Lee*, 126 Fla. 107, 170 So. 422.

Assignments.

Provisions of this section relating to assignments does not include assignments of mortgages. *State ex rel. Rogers v. Sweat*, 113 Fla. 797, 152 So. 432.

Under provision imposing stamp tax on notes, wage assignments, etc., "on each \$100," assignments of wages less than \$100 held subject to minimum tax. *State ex rel. Packard v. Cook*, 108 Fla. 157, 146 So. 223. In this case the court said: "The tax is levied in terms and without any exceptions on the specified subjects. But the rate of the tax is according to the amount of debt or obligation evidenced by such subjects. Notwithstanding the fact that the amount of a debt or obligation evidenced in special cases is less than \$100 with respect to a particular instrument, no legislative intent to completely exempt the subject from taxation is demonstrated, because the legislative intent was clearly expressed to the effect that there should be levied, collected and paid for and in respect to the 'several' documents mentioned and described (in this section) a tax 'on' promissory notes, non-negotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation, as mentioned."

Construction and Application.

Tax on promissory note and each renewal thereof is on a written or printed obligation covered by this section, and to be "note" or "obligation" within this section it must be signed by maker or other obligor. *Lee v. Quincy State Bank*, 127 Fla. 765, 173 So. 909.

Terms of this section imposing excise tax on documents must control its boundaries, as against contention that words "written obligations to pay money" following words "promissory notes" and "non-negotiable notes" must be given broad construction to effectuate Legislature's purpose, and cannot be limited by narrow rule of ejusdem generis. *Metropolis Pub. Co. v. Lee*, 126 Fla. 107, 170 So. 442.

Building Contracts.

Executory contracts to construct buildings are not subject to the documentary stamp tax. *Gay v. S. & B. Construction Company*, 44 So. 286.

Leases—Consideration Payment of Rent in Future.

Where under the terms of the lease the consideration is the lessee's promise in future to pay rent, such rent to be paid in the future, is not a debt until it becomes either due or owing, and such lease is therefore not subject to the documentary stamp tax. *DeVore v. Gay*, 39 So. (2d.) 796.

Construction and Application.

Liability of instrument to stamp duty, as well as amount of such duty, is determined by form and face of instrument and cannot be affected by proof of extrinsic facts. *Lee v. Kenan*, 78 F. 2d. 425, 100 A. L. R. 869.

Incidental Promises to Pay.

Contract for sale and purchase of electricity containing promise to consume certain minimum within designated period was not subject to stamp duty as "written obligation to pay money," since promise to pay money was incidental to contract which was essentially one of sale and purchase. *Bankers' Trust Co. v. Florida East Coast R. Co.*, D. C. 8 F Supp. 874, affirmed *Lee v. Kenan*, 78 F. 2d 425, 100 A. L. R. 869, certiorari denied 56 S. Ct. 170, 296 U. S. 637, 80 L Ed. 453.

Mortgages.

Instruments purporting to be lease of rocking chair valued at \$2.50 and requiring payment of 50 cents a month rent but giving lessee option of purchasing the chair and applying all payments previously made to the valuation thereof was a mortgage which incorporated the certificate of indebtedness not otherwise shown in a separate instrument, and it was subject to the provisions of this chapter requiring the placing of documentary stamps thereon. *Nelson v. Watson*, 114 Fla. 806, 155 So. 101. In this case the court said: "Now, the instrument set out in the affidavit, taken in connection with the stipulation of facts, shows conclusively that there was a conditional sale and purchase of the rocking chair described in the written instrument and that the instrument, while purporting to be a lease, was in fact a paper writing taken to secure deferred payments incident to the purchase of the chair. The chair and its value are named in the instrument. The chair is to remain the property of the vendor until the amounts agreed to be paid as rentals equal the amount of the value stated. The rentals or installments are to be paid on the 30th day of each month after date of the instrument. There is no term of lease mentioned, but it is provided that the chair may be purchased by the payment of the rentals in the aggregate amount equal to the value named. Until the rentals paid equal the value fixed, the title to the property remains in the vendor and so remains to secure the payment of the rentals which in time will equal the value and constitute the purchase price of the property."

"It appears to us that by the terms of this written instrument the amount of the indebtedness which must be paid before the property becomes vested in the vendee is incorporated in the instrument and is not otherwise known in a separate instrument."

Note Mailed to Bank in Another State.

A note mailed to bank in another State and payable there was not exempt from Florida documentary stamp tax on ground that note was not a complete transaction in Florida, where note was made in Florida, loan was used in Florida, and it was in all essential factors a Florida transaction. *Plymouth Citrus Growers Association v. Lee*, 157 Fla. 893, 27 So. 2d. 415.

Agreement for Deed, When Not Subject to Tax.

Because the language of Section 7 in the agreement, among other things, provides that it imposes no personal liability as against the buyer or any subsequent purchaser from the buyer, or any beneficiary for whom they may be acting, it being the understanding of the parties that the seller will look only to the land itself for payment of the balance of the purchase price, agreements for deeds with this language or like language under no circumstances could be construed as an "obligation to pay money." *State ex rel. Weinberg, as Trustee, v. Ray E. Green*, 132 So. 2d 761.

Choctawhatchee Electrical Cooperative, Inc. v. Ray E. Green, 132 So. 2d 556.

Promissory notes executed by an electric cooperative in favor of the United States require documentary stamp tax.

Gulf American Land Corporation v. Ray E. Green, 132 So. 2d 70.

Lot purchase contracts in existence for 6 months without having been rescinded constituted "written obligations to pay money" subject to documentary stamp tax, but contracts rescinded by purchasers within the 6 months period allowed were not subject to the tax.

Charge Accounts Not Taxable.

Petitioner agreed to extend credit to its customers for future purchases and the customer agrees to pay a fixed sum on his account according to a set schedule if and when credit is extended, goods are purchased and a sales slip signed and customer is billed. Viewed in the light of the above-cited authorities, Petitioner's "Flexible Charge Account Application-Agreement" falls within the definition of what was described in the *Metropolis Publishing Company* case as a "mere commercial convenience." Sales slips are not the basis for determining the sums payable by customers but amount simply to secondary evidence of the monies due under the basic agreement should the balance owing be disputed. *Maas Brothers Inc., v. Fred O. Dickinson, Jr.*, Case No. 35,171.

COMPTROLLER'S RULINGS**Acceptance.**

Acceptance under the Laws of Florida must be in writing, and are engagements to pay according to the tenor of the acceptance, and are therefore written obligations for the payment of money and subject to the documentary stamp tax. 31-32 Atty. G. R. 831; 845.

Advertising Contracts.

Advertising contracts, contracts of picture distributing companies, agreements used by Western Union for leasing clocks, etc., to their customers, and other similar instruments where the primary purpose of the instrument is not the payment or repayment of money but an executory contract for the furnishing of services or materials, are not subject to the documentary stamp tax. 35-36 Atty. G. R. 34.

Agreements for Purchase of Merchandise with Supplemental Agreement.

A written obligation to pay money whereby the purchaser promises to pay the vendor a certain sum of money to cover the purchase price of itemized merchandise purchased from the vendor, requires documentary stamps for the full amount of the purchase. When a supplemental agreement, either separate or as part of the original agreement, is used for the purchase of additional merchandise and the supplemental agreement embodies the terms of the original agreement by reference or otherwise to cover the additional merchandise purchased, then this supplemental agreement must bear documentary stamps in an amount to cover the amount of the original agreement plus the amount of the supplemental agreement. 39-40 Atty. G. R. 436.

Amount of Stamps Required.

EXAMPLES:

Debt for \$.01 through \$100.00	Tax 15¢
Debt for 100.01 through 200.00	Tax 30¢
Debt for 200.01 through 300.00	Tax 45¢
Debt for 300.01 through 400.00	Tax 60¢
Debt for 400.01 through 500.00	Tax 75¢
Debt for 500.01 through 600.00	Tax 90¢

Assignment of Conditional Sale Contract.

An assignment of a conditional sale contract does not come within the terms of the Documentary Stamp Tax Act. Therefore, such assignments are not required to carry the documentary stamp tax. 31-32 Atty. G. R. 853, 854.

Assignment of Mortgage to Insurance Company.

Where the proper documentary stamp tax has been paid on the original note or mortgage, the assignment of such note and mortgage to the insurance company does not require documentary stamps. 47-48 Atty. G. R. 230.

Assignments of Wages.

Where an employee of an industry of this State secured a loan from a banking institution in this State payable in one or more installments, such employee at the same time requesting his employer to deliver his pay check to the bank, which the employer agrees to do, and authorizing the bank to receive, endorse and place the proceeds of said check to his account and charge the said installments to the said account, such procedure constitutes an assignment of wages and the instruments are subject to the proper amount of documentary stamp tax. 49-50 Atty. G. R. 259.

Bank Loans Secured by Government Securities.

Bank loans secured by Government securities are subject to the documentary stamp tax. Letter December 30, 1931.

Bill of Sale.

A bill of sale conveying tangible personal property for a cash consideration paid in full contemporaneously with the execution of the bill of sale does not require the payment of the documentary stamp tax. 31-32 Atty. G. R. 945.

Cashier's Checks.

A cashier's check is a check, draft or other order for the payment of money drawn by the cashier of a bank upon either his own or some other bank, in which funds of his bank are deposited, and is not a written obligation for the payment of money as contemplated by the provisions and requirements of the Documentary Stamp Tax Act. Therefore, no tax is required on cashier's checks. 31-32 Atty. G. R. 831; 845.

Certified Check.

When a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance. The bank upon certification of a check becomes liable to the holder. Thereupon, the certification of a check by a bank becomes a written obligation to pay money and is subject to the documentary stamp tax. 31-32 Atty. G. R. 831; 845.

Certified Check Issued by Municipality to Treasurer of the United States.

Certified checks issued by a municipality payable to the Treasurer of the United States are not subject to the documentary stamp tax. Letter April 11, 1941.

Chattel Mortgage or Conditional Bill of Sale Without Separate Note.

A chattel mortgage or conditional bill of sale, which contains in the body of the contract or mortgage the promise to pay, and this is not evidenced by a separate note or writing, then such bill of sale or mortgage shall bear the required revenue stamps; however, if there is a separate promissory note evidencing the indebtedness, then the chattel mortgage or conditional bill of sale, which is security for such note, need not bear a revenue stamp, but only a notation of the stamp attached to the note. 31-32 Atty. G. R. 854.

Commercial Paper Delivered in State.

Commercial paper such as promissory notes, trade acceptances, conditional sale contracts, etc., signed, issued and payable outside the State of Florida, if delivered to a person, firm or corporation in this State, is subject to the documentary stamp tax. 31-32 Atty. G. R. 874.

Conditional Sale Contract.

A conditional sale contract is unquestionably a written obligation to pay money and therefore is subject to the documentary stamp tax. 31-32 Atty. G. R. 853.

Contracts Made Outside the State and Transferred Into the State.

A chain store company sells merchandise under agreement or contract outside the State of Florida, and the merchandise is delivered outside the State. Subsequently the purchaser moves to Florida, and the unpaid balance due on such contract or agreement is forwarded to one of the chain stores in Florida. Such contracts are not Florida transactions even after the agreement is forwarded to one of the Florida stores for collection. Therefore, the documentary stamp is not required upon the balance due at the time they are brought into Florida. 43-44 Atty. G. R. 226.

Contract for Deed Owned by Building and Loan Association.

Contracts for deeds to land owned by building and loan associations are subject to the documentary stamp tax. 39-40 Atty. G. R. 435.

Cooperative Apartment Leases.

Where a proprietary lease of a cooperative apartment building, located in this State, requires persons leasing apartments in such building to purchase a sum certain in the corporate stock of the owning corporation and pay annual sums, such lease to the extent that it contains a present obligation to pay a sum or sums certain in money, that is to purchase corporate stock, is subject to the proper documentary stamp tax, but insofar as it contains promises to pay moneys, the sums of which may not be determined at this time and may only be determined in the future, it is not subject to documentary stamp tax for that part. When the stock is issued, the stock must bear the proper documentary stamp tax. 47-48 Atty. G. R. 231.

Copy of Notes Attached to Mortgage.

Where a copy of the mortgage note is attached to the mortgage, it is permissible to have the documentary stamps placed on the copy of the note instead of the original note. It is not necessary to obtain a receipt for the payment of the documentary stamp tax, as the stamps themselves are sufficient evidence of the payment thereof. Letter January 7, 1932.

Credit Unions.

Notes and written obligations to pay money given to credit unions organized under the Laws of this State or of the United States are subject to the documentary stamp tax. Letter December 12, 1931.

Deed—Cash Payment and Assumption of Mortgage.

A deed, the consideration for which is cash \$2,500.00 and the assumption of an already existing mortgage in favor of a third party in the sum of \$2,500.00, requires documentary stamp tax based on the total consideration of \$5,000.00. Letter January 1, 1932.

Deed to Real Estate and Mortgage in Connection Therewith—Amount of Tax.

Where a piece of property is sold and a deed for it is given and a mortgage is taken as a part of the purchase price with notes securing the mortgage, the documentary stamp tax on the deed is the full purchase price of said property, including that which is paid by giving the mortgage. Also, the notes given to secure the mortgage are subject to the full amount of revenue stamps according to the amount of the notes. In a sense this may be a double taxation, yet double taxation such as this is not violative of any constitutional provision, and unquestionably this was the intention of the Legislature as shown by a careful reading of the Act. 31-32 Atty. G. R. 1002.

Deed and Mortgage.

Where land is sold for the purchase price of \$100,000.00, and cash in the amount of \$5,000 is paid and a purchase price mortgage given for \$95,000.00, the deed conveying the property should have affixed to it \$300.00 worth of documentary stamps, and the note accompanying the mortgage should have affixed to it \$142.50 in documentary stamps. Letters November 19, December 3, 1931.

Demand Loans.

Forms used by banks in making so-called "demand loans" contain a written obligation to pay money and are subject to the documentary stamp tax based upon the full amount of the demand loan. 41-42 Atty. G. R. 212.

Indebtedness of Governmental Agency.

All notes, bonds, mortgages, deeds and other evidences of indebtedness issued, sold, transferred, assigned or delivered by any State, County or subdivision thereof, or municipality, all being Governmental agencies, are exempt from the documentary stamp tax. This also applies, of course, to such documents and instruments issued by the Federal Government and its agencies. 31-32 Atty. G. R. 889, 892.

Farmers' Home Corporation or Federal Production Credit Association Mortgages and Notes.

Note secured by mortgages encumbering real property in Florida given to Farmers' Home Corporation or Federal Production Credit Association, are subject to the documentary stamp tax. 49-50 Atty. G. R. 254.

Federal Land Bank Mortgages and Notes.

Section 931 of Title 12, United States Code, provides,

"First mortgages executed to Federal Land Banks, or to Joint-Stock Land Banks, and Farm Loan Bonds executed under the provisions of this Chapter shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, Municipal and local taxation."

In the light of the above provision of the Federal Law, documentary stamps are not required on:

1. Mortgages to Federal Land Banks.
2. Notes to Federal Land Banks.
3. Master's Deeds to Federal Land Banks, pursuant to mortgage foreclosures. 31-32 Atty. G. R. 281.

Interest Coupons on Mortgage Notes.

Documentary stamps are not required on mortgage note interest coupon where the stamps are placed on the principal note. 31-32 Atty. G. R. 893.

Interest Notes.

Where notes are made for interest, documentary stamps should be placed thereon. However, where interest is paid on the principal note and nothing other than a notation of the interest is made thereon, it is not necessary to attach stamps each time interest is paid. Letter May 10, 1932.

Instruments to Federal Intermediate Credit Bank, Central Bank for Cooperatives, Columbia Bank for Cooperatives, Production Credit Corporation of Columbia, Production Credit Corporation, Commodity Credit Corporation.

Federal Intermediate Credit Bank, Central Bank for Cooperatives, Columbia Bank for Cooperatives, Production Credit Corporation of Columbia, Production Credit Corporation and Commodity Credit Corporation are all Federal agencies and as such are not subject to the documentary stamp tax. However, as the instruments themselves are not exempt from taxation, persons executing promissory notes and other instruments of credit to any of said agencies are liable for the documentary stamp tax. Therefore, all instruments issued under Section 201.08, Florida Statutes, in favor of any of the above-named Federal agencies, require documentary stamp tax. 33-34 Atty. G. R. 38; 35-36 Atty. G. R. 31.

Investors Syndicate Contracts.

Investors Syndicate maintains several representatives in Florida and does an extensive business in the State in the sale of contracts such as: (1) 15 year installment investment certificates, (2) 10 year coupon and annuity certificates, (3) 10 year single payment certificates. These instruments are signed by the company in Minnesota and are delivered in Florida to the purchaser. These are all written obligations to pay money and are subject to the documentary stamp tax. Letter April 28, 1934.

Mortgages and Assignments Thereof to Federal Intermediate Credit Bank.

Assignments of mortgages and crop liens to Federal Intermediate Credit Bank are not subject to the documentary stamp tax, but the mortgages and crop liens from the growers to the Growers' Association are subject to the documentary stamp tax. Letter February 13, 1932.

Mortgage Assignment Proceeds.

Where mortgage loans are made in this State by mortgage loan correspondents of insurance companies of other States, which upon closing of the loan is assigned by the loan correspondent to the insurance company, such mortgage assignments are not subject to the documentary stamp tax. 47-48 Atty. G. R. 230.

Mortgage Given to Reconstruction Finance Corporation.

Section 1463 (c), United States Code, reads as follows:

“The bonds issued by the Corporation under this subsection shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by . . . any State . . . The Corporation, loans and income, shall likewise be exempt from such taxation . . .”

Based upon the foregoing a note secured by a mortgage given to the Reconstruction Finance Corporation is not subject to the documentary stamp tax. 47-48 Atty. G. R. 228.

Mortgages, Notes and Deeds Executed by or to National Banks.

Mortgages, notes and deeds executed by or to a national bank located within the State of Florida are required to have the necessary amount of State documentary stamp tax attached regardless of whether executed by or to a national bank. The tax is not upon the maker or payee but upon the document, and the requirement is that it be paid either by the maker or payee. Letter June 15, 1933.

Mortgage Securing a Certificate of Indebtedness.

A mortgage securing certificate of indebtedness does not require documentary stamp tax if certificate of indebtedness is a separate instrument, but the certificate of indebtedness itself must have the requisite stamps attached. Letter March 17, 1932.

Notes and Mortgages Issued in Another State.

Where a promissory note and mortgage are executed in another state, the mortgage is recorded in another state, and payment to the borrower is made in another state, and immediately thereafter the note and mortgage are sent to the home office of the lender in Florida, said promissory note and mortgage are subject to proper documentary stamp tax. A. G. 058-106.

Notes and Other Written Obligations to Pay Money Secured by Tax Free Securities.

Notes or other written obligations to pay money secured by municipal or other tax free bonds are subject to the proper documentary stamp tax. Letter January 15, 1932.

Notes Secured by Mortgages Executed by a Religious Organization.

Notes secured by mortgages executed by religious organizations are subject to the documentary stamp tax. 47-48 Atty. G. R. 230.

Notes of Religious Bodies.

Notes given to a bank as securities for loans to religious bodies are subject to the documentary stamp tax. Letter January 27, 1932.

Orders and Purchase Contracts for Machinery From Out of State of Florida.

Where a person doing business in the State sends an ordinary purchase order for the purchase of machinery to a nonresident doing business in another State, which order is accepted in another State and the machinery shipped interstate,

such ordinary purchase order, when it contains no express promise to pay for the machinery ordered and the same is shipped on open account or cash on delivery is not subject to the documentary stamp tax.

Where a person doing business in this State sends a written order for the purchase of machinery to a nonresident doing business in another State, which order is accepted in another State and the machinery shipped interstate, such written purchase order, when it contains an express promise to pay the purchase price or the remainder thereof for the machinery so purchased is not subject to the documentary stamp tax as there is no written obligation to pay money subsequent to the delivery of the goods, wares or merchandise.

Where the purchase price, or the remainder thereof, is evidenced by an installment purchase agreement, made and executed in this State but sent interstate to the seller, such installment purchase agreement is subject to the payment of the documentary stamp tax because there is an obligation to pay money subsequent to the delivery of the machinery. 45-46 Atty. G. R. 339.

Payment of Interest on Notes.

It is not necessary to affix documentary stamps on a note each time interest is paid thereon in the case where a new note is not made. Letter November 5, 1931.

Rate Applied to Conditional Sales Contract.

Where a conditional sales contract recites that the purchaser is to pay \$500.00, \$100.00 of which is paid upon delivery of the contract and the balance to be paid in four equal installments, the documentary stamp tax is based on the installment payments of \$400.00. Letter December 29, 1932.

Receivers of National Banks.

A National Bank in the hands of a receiver is not required to pay the documentary stamp tax out of and from the assets of trusts in his hands. 31-32 Atty. G. R. 882.

Retain Title Contract.

Where goods are sold on retain title contracts and where the contracts amount to \$100.00 or less, the amount of tax required is 15¢. The minimum tax of 15¢ is applicable to contracts of \$100.00 or any fractional part of \$100.00. 31-32 Atty. G. R. 867.

Where under a contract the purchaser agrees to pay a certain price upon certain terms, the title to the property to remain in the seller until the contract price is paid in full, such contract constitutes an obligation to pay money and is subject to the documentary stamp tax. 33-34 Atty. G. R. 48.

Secured Note.

A note secured by a chattel mortgage and also by a separate instrument, which is an assignment of wages, such assignment of wages, as well as the note, must bear the stamp tax based on the full amount of the consideration. A note secured by one instrument which amounts to a chattel mortgage on property and wages, the note alone needs the stamp tax. A mortgage which carries the obligation to pay money without any note and also constitutes within itself an assignment of wages, this instrument alone would have to carry the documentary stamp tax based on the full consideration of the instrument. 31-32 Atty. G. R. 864.

Sales Contract.

A sales contract is a written obligation to pay money and is subject to the documentary stamp tax. 31-32 Atty. G. R. 891.

Satisfaction of Mortgage.

Satisfaction of mortgage is not subject to the documentary stamp tax. 31-32 Atty. G. R. 962.

School Board Obligations.

School Boards are public State agencies, and no documentary stamps are required on notes issued by such Boards. Letter March 18, 1932.

Subdividers Bonds to County Commissioners.

A bond given by subdividers of real estate in connection with approval of a subdivision by Board of County Commissioners conditioned that should the makers of such bond construct streets, alleys and thoroughfares as promised the bonds would become null and void, otherwise to remain in full force and effect, is not subject to the documentary stamp tax. 49-50 Atty. G. R. 255.

Surety Bonds.

Surety bonds which are to insure the doing of certain things required by the conditions of such bonds and which contain a promise to pay a sum only in the event of the happening of the named contingency, do not require the documentary stamp tax. 43-44 Atty. G. R. 224.

Trackage Contracts with Railroad Companies.

Trackage contracts made between a railroad company and a manufacturing corporation under which the manufacturing corporation is granted the right to operate engines and cars of the manufacturing corporation over and upon the tracks of the railroad company between certain points, are written obligations to pay money, and are subject to the documentary stamp tax. Letter December 13, 1933.

Trade Acceptances.

Trade acceptances, as known to the mercantile field, when payable on a date subsequent to acceptance, are written obligations for the payment of money from the date of such acceptance, but are in the nature of checks when payable on demand or presentation and presentation is made forthwith after acceptance. A. G. 066-18.

Transfers and Assignments to Trustees.

In those instances where certain assets consisting of lands, judgments, notes secured by mortgage, crop liens and certificates of stock of a corporation are about to be transferred to trustees under the terms of a trust agreement whereby the trustees are not buying the assets and are taking title thereto only for the purpose set forth in the trust instrument, the following instruments involved in such a transaction are subject to the documentary stamp tax: deeds transferring or conveying the title to lands, assignments of judgments, crop liens and mortgages, the tax on such instruments is measured by the consideration for the transfer, conveyance or assignment. In these cases the amount of stamp tax would be 30¢ on the deeds. The tax on transfer of assignment of shares of stock is measured by the face value of the stock. 33-34 Atty. G. R. 45.

Travel Checks.

A travel check is issued by the bank and thereupon becomes an order for the payment of money by the bank when properly countersigned, much in the character of a cashier's check. Therefore, a travel check is not subject to the documentary stamp tax. 31-32 Atty. G. R. 893.

Trust Deed or Mortgage Given to Secure Bonds or Notes.

Where a trust deed or mortgage is given to secure bonds or notes, the required documentary stamps should be placed upon the bonds or notes and a notation made on the margin of the trust deed or mortgage reciting the fact that the documentary stamps have been attached to such bonds or notes. 31-32 Atty. G. R. 864; 43-44 Atty. G. R. 223.

Mortgage Given to Secure Surety Bond.

When subdividers of real property, as a condition precedent, in connection with the approval of a subdivision by the Board of County Commissioners, gives a double or conditional bond to the county to insure the construction of streets, etc., indicated upon the plat of such subdivision, conditioned that should the makers of such bond construct such streets, etc., as promised, the bond to become null and void, otherwise to remain in full force and effect, and secures the same by a mortgage upon real property, the mortgage which contains the obligation to pay is subject to the proper documentary stamp tax. 49-50 Atty. G. R. 255.

Oil and Gas Leases.

Oil and gas leases and assignments or conveyances of oil, gas and mineral rights, or royalty interests, affecting lands in this state, are subject to the proper documentary stamp tax. 49-50 Atty. G. R. 255.

Oil and Gas Leases.

Oil and gas leases on real estate are subject to the State documentary stamp tax. 45-46 Atty. G. R. 336; 49-50 Atty. G. R. 255.

Certificate of Equity in Growers' Surplus.

A "Certificate of equity in Growers' Surplus," issued by an association incorporated under Chapter 619, Florida Statutes, is subject to proper documentary stamp tax. 49-50 Atty. G. R. 254.

Certificates of Memberships—Non-Profit Corporation.

Where a non-profit corporation issues certificates of membership to its members evidencing such member's rights in the property of said non-profit corporation, without fixing any value of same, such certificates of membership are not subject to the documentary stamp tax. 49-50. G. R. 258.

Collateral Deposited With Bank.

An agreement in writing between a bank and a borrower, the terms of which are that the borrower deposits with the bank collateral to secure payment by the borrower of an advance or loan and agrees that the bank may sell, under stated conditions, the collateral, if necessary, to satisfy the debt due the bank by the borrower, is not a written obligation to pay money within the provisions of Section 201.08 F. S. and is, therefore, not subject to documentary stamp tax. A. G. 054-265.

Notes Given Credit Unions.

Promissory notes made and delivered by individuals to Federal Credit Unions, and also promissory notes made and delivered by individuals to State Credit Unions, are subject to the proper documentary stamp tax. A. G. 056-247.

Advances on Pulp Wood.

Where money is advanced by a pulpwood mill to a land owner, which advance is secured by a mortgage encumbering timber and pulpwood, present and future, and made payable by the crediting of a percentage of the price to be paid for pulpwood, and not in cash, such an instrument is not negotiable and does not contain a written obligation to repay in money, but in pulpwood and, therefore, does not come within the purview of Section 201.08 F. S. and is not subject to the documentary stamp tax. 55-56 Atty. G. R. 829.

Notes Signed in Another State and Loan Made in Florida.

Where a promissory note is signed by its maker in another state and mailed to the payee in this state, after which it is examined, approved and accepted and a loan in the principal amount of the note is made to the maker, such note is subject to the proper documentary stamp tax. 55-56 Atty. G. R. 930.

Notes Signed by Federal Credit Unions.

Promissory notes made and executed by Federal Credit Unions in this state are not subject to documentary stamp tax. A. G. 057-21.

Rotating Charge Account; Papers, when Signed as Constituting Written Obligation to Pay Money.

The application for a rotating charge account, the credit application, and the sales slip used by Fremacs do not constitute written obligations to pay money and do not require documentary stamps. A. G. 057-23.

Notes and Other Obligations to the Rural Electrification Administration.

Promissory notes and other obligations to pay money made, signed and executed in this state by telephone companies and electric cooperatives to the Federal Rural Electrification Administration are subject to documentary stamp taxes under Chapter 201, Florida Statutes, however, there is no obligation on the REA or the Federal Government to pay such tax. Collection thereof is to be made from the maker only. A. G. 058-281.

Dancing Lessons Contract.

Contract of student to take dancing lessons and pay a stipulated amount on installments are subject to the proper documentary stamp tax. Letter Attorney General January 27, 1959.

Assignments of Wages to Labor Union.

The agreement for deducting of union dues from salaries of members of Brotherhood of Railroad Trainmen as evidenced by the instruments attached to original request for opinion does not in fact constitute an assignment of wages within intent, meaning and scope of Sec. 201.08, Florida Statutes, and consequently is not subject to Florida Documentary Stamp Tax. A. G. 059-27.

Motor Vehicle Sales Financing.

Promissory note made and delivered by a motor vehicle dealer to a bank or other financial institution, along with an agreement or contract for motor vehicle financing, is an obligation to pay money or a promissory note so as to be within the purview of said Section 201.08, Florida Statutes. A. G. 059-44.

Promissory Note to Secure a Line of Credit.

Promissory notes to secure a line of credit with a bank are taxable under Section 201.08 (1) rather than under Section 201.08 (2). A. G. 059-71.

Credit Plans, etc.

Credit plans, credit accounts and other similar bank financing agreements are subject to documentary stamp taxes when such plans constitute an obligation to pay money within the purview of §201.08, Florida Statutes. A. G. 059-89.

Agreement to Loan Money Upon Oral Request.

An executory contract between the bank agreeing to loan unspecified sums of money to the corporation upon its oral request is not a written obligation to pay money within the purview of §201.08, Florida Statutes, 1957, and is not subject to a documentary stamp tax. A. G. 059-216.

Documentary, Intangible Taxes on Note Secured by Pledge or Assignment of Real Estate Mortgage.

Written obligations to pay money secured by pledge or assignment of real estate mortgage are subject to state documentary stamp tax, and that such obligation so secured is "Class D" intangible personal property and subject to intangible personal property taxation as such, under Chapter 199. A. G. 059-229.

Contract to Sell and Convey Real Property.

A contract to sell realty which vests no more than an equitable interest in the purchaser was not subject to taxation under §201.02, but was taxable as an obligation to pay money under §201.08, Florida Statutes. A. G. 059-244.

Retail Installment Sales Contracts; Obligations to Pay Money.

Written documents made and executed under the retail installment sales law, §§520.30-520.42, Florida Statutes, are subject to documentary stamp taxation under §201.08, Florida Statutes; that "written obligations to pay money," under the last mentioned section, are those contracts admissible in court to support an action to collect sums thereunder; that documentary stamp taxes are due on written obligations to pay money even though the sum due is less than one hundred dollars, and that said taxes are imposed upon the documents composing the written obligation to pay money. A. G. 059-274.

Leases with Option to Purchase.

A lease agreement with an option to purchase at the end of the term of the lease and wherein the lessee thereto obligates himself to pay certain rental payments, is subject to state documentary stamp taxation as an obligation to pay money. A. G. 060-34.

Mortgages Encumbering Long-Term Leases. Chapter 201, Florida Statutes.

Long-term leases of real property are not subject to documentary stamp taxation under Chapter 201, Florida Statutes; that the owner and holder of a long-term lease is not entitled to homestead tax exemption where his interest in said homestead arises solely by reason of such lease and that permanent buildings erected on leased property should be assessed as property of the lessor. A. G. 060-56.

Promissory Notes Made in Other States.

A promissory note made in Maryland, by a Delaware Corporation, to a Florida bank, payable at a bank in New York, is not subject to Florida documentary stamp tax. A. G. 060-82.

Stamp Taxes for Annuities.

Annuity agreements, issued by nonprofit corporations to individuals in consideration of gifts or donations are subject to documentary stamp taxes in this state and that the value of the annuity is to be based upon the life expectancy of both of the donees. A. G. 060-131.

Taxation of Promissory Notes.

Promissory notes, made, executed and delivered in other states, and brought into this state by the payee or holder thereof, either in person or by agent, not by mail or common carrier, are subject to taxation under Sections 201.01 and 201.08, Florida Statutes. A. G. 060-162.

Stamping of Copies Under Some Circumstances.

Where original documents subject to taxation under Section 201.08, Florida Statutes, are to be transmitted to and maintained in other states, by the owner or holder thereof, a copy thereof, in lieu of such original, may be stamped and maintained in Florida with the consent of the State Comptroller. A. G. 060-176.

Obligations Brought into State for Collection.

Contracts for the purchase and sale of real property located in this state, made, executed and delivered in other states, when sent into this state for purposes of collection only does not subject it to taxation under Chapter 201, Florida Statutes. A. G. 060-209.

Vendors' Liens; Covenants to Pay.

Where a deed of conveyance recites the retention of a vendor's lien and contains a provision that the vendee agrees to the reservation of the said lien and to pay the unpaid balance of the purchase price, there is a written promise to pay money within the purview of Section 201.08, Florida Statutes. A. G. 061-8.

Pawnbrokers; Pawn Tickets.

Transactions between pawnbrokers and their customers concerning pawns made between them are not "written obligations to pay money" within the purview of §201.08, Florida Statutes, unless the pawn ticket or a copy thereof contains a written promise to pay money, or is otherwise specifically within some section of Chapter 201, Florida Statutes. Whether a pawn ticket is a written promise to pay money must be determined from the face of that document. A. G. 061-12.

Retail Installment Sales; Documents and Forms Used by Florida Retailers; Charges on Sales; Sales Slips, Stamp Taxes, Sections 201.08(2), 520.30-520.42, 520.31, 520.34, 520.34(4), and 520.35, Florida Statutes.

Documents and forms used in connection with retail installment contracts or revolving accounts are within the purview of Sections 520.30-520.42, Florida Statutes. Also, the minimum time price differential of \$15 as contained in Section 520.34(4), Florida Statutes, is intended to cover the expenses of maintaining an installment account, and where the time price differential of "ten dollars per one hundred dollars per year" does not produce, during the life of the retail installment contract, the sum of \$15, the difference may be charged to the purchases; however, what is in fact a single retail installment contract may not be broken up into two or more such contracts merely for the purpose of producing more compensation to the seller. Further, the total charges on all sales made under one five-months contract are limited to the annual rate of ten per cent of the principal balance, or \$15, whichever is the greater, regardless of the length of time during which the several sales were made. Lastly, retail installment contract forms and allied documents, being signed by the buyer, constitute written obligations to pay money within the purview of Section 201.08, Florida Statutes. A. G. 061-23.

Retail Installment Sales Contracts and Revolving Accounts; Written Promises to Pay Money.

That although most retail installment contracts and revolving accounts under Sections 520.34 and 520.35, Florida Statutes, contain written promises to pay money, within the purview of Section 201.08, Florida Statutes, it may be possible to conform to Sections 520.34 and 520.35 and give the information required without there being more than an implied promise to pay money. A. G. 061-60.

Veterans Administration Guaranteed Loans.

Sections 201.01 and 201.02, Florida Statutes. Attorney General Opinions 061-46, March 14, 1961, 060-177, October 28, 1960; and 053-207, August 19, 1953. Veterans Administration was advised by the Attorney General that promissory notes given by veterans as evidence of indebtedness to the Administrator of Veterans Affairs incident to a direct loan are subject to State of Florida documentary stamp taxes by their maker. Deeds to or from the Administrator, in transactions involving the sale of properties to purchasers, and the acquisition of properties from holders of guaranteed and insured loans after foreclosure are not subject to state documentary stamp tax. Further, in those cases in which the Administrator is the successful bidder at the foreclosure sale, the certificate of title is subject to state documentary stamp tax for the account of the mortgagor. In direct loan cases in which the veteran-borrower voluntarily conveys the security to the Administrator in lieu of foreclosure, the grantor is subject to a tax under Section 201.02, Florida Statutes, but the Administrator would not be liable therefor. A. G. 061-84.

Loans Through the Farmers Home Administration:

Documentary stamp taxes are not due on promissory notes or other written obligations to pay money to the United States through the Farmers Home Administration: A. G. 061-160.

Agreements for Deeds—Weinberg Case—Opinion 059-244.

In light of the Weinberg case, 132 So. 2d 761, contracts for the sale of land, containing no "Written obligation to pay money" of the same nature of promissory notes and non-negotiable notes, are not to be deemed written obligations to pay money within the purview of Section 201.08, Florida Statutes. Attorney General's Opinion 059-244 should be construed as extending to contracts for the sale of land containing express obligations to pay money, of the same genus as promissory notes and non-negotiable notes. With this limitation, Opinion 059-244, is adhered to and confirmed. A. G. 061-176.

Explanation: In the Weinberg case the following provisions were incorporated in the agreement for deed:

"as against the buyer or subsequent purchaser from the buyer, or any beneficiary for whom they may be acting, it being the understanding of the parties that the seller will look only to the land itself for payment of the balance of the purchase price."

If a contract or agreement for a deed has this provision or similar provision, there is no obligation to pay money in the contract and no documentary stamps are due. If there is no such provision in the contract or agreement, under Attorney General's Opinion 061-176 there is an obligation to pay money and the stamp tax is due.

Notes Secured by Trust Receipts; Conditional Sales;

Conditional sales agreements, evidencing the sale of motor vehicles, from a customer to a motor vehicle dealer in Georgia, discounted and assigned to a finance company doing business in Florida, are not subject to documentary stamp taxes under Florida Statutes, when such agreements are entirely entered into and executed in Georgia, and the finance company enters into the matter after the conditional sales contract is binding. Promissory notes made in Georgia, and secured by a trust receipt encumbering motor vehicles are subject to documentary stamp taxes under Florida Statutes only when some phase of the execution of the note takes place in Florida. A. G. 062-11.

Assumption by One Person of Obligation of Another.

The measure of documentary stamp taxes payable on an agreement entered into by and between three parties whereunder a third party, with the consent of the mortgagee, assumes the obligation of the mortgagor, who is released from the said obligation by the mortgagee is the total amount assumed by said third party. A. G. 062-43.

Intangible Personal Property Taxes; Shares in Trusts; Securities.

Shares or other evidence of beneficial interests in real and personal property held in trust, issued by the trustee or trustor, are intangible personal property subject to taxation under Chapter 199, Florida Statutes, only when the trust estate itself is not subject to ad valorem taxation in this state. Obligations issued by a business trust, in the form of bonds, notes and like instruments, secured by lien on trust property or unsecured, are intangible personal property subject to taxation under Chapter 199, Florida Statutes, when they have a tax situs in this state. This does not include certificates or other evidences of an interest in the trust property. Such bonds, notes and like instruments are within the purview of subparagraph 3, paragraph (a), subsection (2), Section 199.02, and when registered must be reported to the State Comptroller of Florida when they have a tax situs in Florida. Shares or other evidence of beneficial interest in real property held in trust are within the purview of Section 201.02, Florida Statutes; however, such interests in personal property is not within said Section 201.02, it being limited to real property and interests therein. Obligations issued by a business trust, if otherwise within the purview of the several sections of Chapter 201, Florida Statutes, whether secured or unsecured, are subject to documentary stamp taxes, unless within some express exemption provision of the Florida Constitution, statutes or laws. A. G. 062-55.

Contracts to Sell and Convey; Assignments;

When a vendor, under a contract to sell and convey real property, transfers such property to a third person, whether such transfer includes the obligation of the vendee to pay money or not, documentary stamp taxes for such transfer should be measured by the consideration agreed to be paid by the vendee, less any taxes previously paid on such transaction under said Section 201.02, Florida Statutes, if any. A. G. 062-80.

Contract of Sale Subject to Mortgage Indebtedness.

In the absence of sufficient competent evidence to the contrary, the mortgage obligation should be included when imposing documentary stamps where the interest of a vendor and a contract to sell conveyed real property is conveyed and/or assigned to a third person where such real property is subject to an outstanding mortgage. A. G. 062-99.

Insurance Premium Financing Arrangements and Agreements.

"Premium Account Agreements" and similar contracts, entered into by and between money lenders and holders of insurance policies, and with insurance agents, where the lenders obligate themselves to advance funds to such policy holders and insurance agents, to be used in the financing of insurance premium payments, are not subject to documentary stamp taxes, under Section 201.08, Florida Statutes, except to the extent that funds are advanced prior to or at the time of the execution of the premium account agreement or similar contract. A. G. 063-38.

Documents Executed on Military Bases in this State.

There is no authority for the states to enforce state documentary stamp taxes against persons making such documents on federal reservations, in the absence of congressional consent or reservation in the cession of state jurisdiction to the federal government or its agency. The attorney for the federal credit union is without authority to waive the rule against immunity from taxation by approving, or even requiring, the placing of state stamps on such documents made on federal reservations. A. G. 063-136.

Modification and Extension of Promissory Note.

When an agreement modifies payment of the balance due on a promissory note and adds a principal amount thereto, class "C" intangible personal property taxes and documentary stamp taxes are due only on the amount of the increase in the obligation. A. G. 063-141.

Intangible and Documentary Taxes; Additional Advanced Secured by Mortgage.

Intangible personal property taxes are due on additional advances, whether or not such additional advances increase the current obligation beyond the original mortgage, and that promissory notes used in connection with the original obligation and the additional advances are subject to documentary stamp taxes. A. G. 064-49.

Obligations Made in Other States; Period of Refund.

Written obligations to pay money, executed in other states, and assigned by the payee therein to residents of Florida, are not subject to taxation in Florida when brought into Florida, unless the bringing of the documents into Florida was a part of the transaction whereby the document was originally executed. An application for a refund is made by the maker of an instrument, there would seem to be a legal presumption that the taxes were paid by the maker; however, when the application for a refund of taxes paid under Chapter 201, Florida Statutes, is made by a person other than the maker of the document or instrument, the burden is on such applicant to prove as a fact that he actually paid the tax. He further advised that subsection (2) of Section 215.26, Florida Statutes, which is a statute of limitations, under which any right to a refund is barred if not made within the time mentioned in said Section is not retroactive.

This limitation from the enactment of Chapter 22,008, Acts of 1943, (June 10, 1943) was one year until the enactment of Chapter 59-181 (May 18, 1959), when the limitation became eighteen months, until the enactment of Chapter 63-271 (June 3, 1965) when it became three years. A. G. 065-76.

517.32 Exemption from excise tax, certain obligations to pay.—There shall be exempt from all excise taxes imposed by chapter 201, all promissory notes, non-negotiable notes and other written obligations to pay money bearing dates subsequent to July 1, 1957, when the maker thereof is a security dealer registered by the securities commission under chapter 517, when such promissory note, non-negotiable note or notes or other written obligation to pay money shall be for the duration of thirty days or less and secured by pledge or deposit, as collateral security for the payment thereof, security or securities as defined in §517.02, provided all excise taxes imposed by chapter 201, shall have been paid upon such collateral security.

History.—Comp. §1, ch. 57-823.
cf.—ch. 201, Excise tax on documents.
§201.21 Notes and other written obligations exempt under certain conditions.

201.09 Renewal of existing promissory note; exemption.—When any promissory note is given in renewal of any existing promissory note, which said renewal note only extends or continues the identical contractual obligations of the original promissory note and evidences part or all of the original indebtedness evidenced thereby, not including any accumulated interest thereon and without enlargement in any way of said original contract and obligation, such renewal note shall not be subject to taxation under this chapter if such renewal note has attached to it the original promissory note with canceled stamps affixed thereon showing full payment of the tax due thereon.

History.—§1, ch. 19068, 1939; CGL 1940 Supp. 1279(118).

COMPTROLLER'S RULINGS

Renewal Notes.

A renewal of an existing promissory note which extends or continues the identical contractual obligation of the original note or all of the original indebtedness evidenced thereby, is not subject to the documentary stamp if the original promissory note with cancelled stamps affixed is attached. In order for a renewal note to escape the tax it is necessary for such renewal note to have attached to it the original promissory note with cancelled stamps showing that a previous tax has been paid and that the original contractual obligation is not changed. If the original obligation is changed by change of the amount of the note or in any other manner, such new note is subject to the documentary stamp tax based upon the full amount of said new note. 37-38 Atty. G. R. 507.

Renewal of Notes.

That where a single promissory note is given in renewal of two or more notes, so as to extend or continue the existing contractual obligations, such renewal note is entitled to exemption under Section 201.09, Florida Statutes, subject to the observations set out in the opinion. A. G. 058-342.

Effect of Increased Interest Upon Section 201.09, Florida Statutes.

That under the provisions of Section 201.09, Florida Statutes, an increase in the rate of interest in a note extending or renewing an existing one does not require the payment of an additional tax under Section 201.08, Florida Statutes. A. G. 059-11.

Stamping of Copies Under Some Circumstances.

Where original documents subject to taxation under Section 201.08, Florida Statutes, are to be transmitted to and maintained in other states, by the owner or holder thereof, a copy thereof, in lieu of such original, may be stamped and maintained in Florida with the consent of the State Comptroller. A. G. 060-176.

Substituted Promissory Notes and Mortgages.

When two promissory notes are substituted for an original one, without making any change in substance of the existing contract, they are in law renewal notes within the purview of Section 201.09, Florida Statutes, and are exempt under said section from documentary stamp taxes provided that documentary stamp taxes due on the original note have been paid in full and the requirements of said Section 201.09, Florida Statutes are complied with. A. G. 062-139.

Modification and Extension of Promissory Note.

When an agreement modifies payment of the balance due on a promissory note and adds a principal amount thereto, class "C" intangible personal property taxes and documentary stamp taxes are due only on the amount of the increase in the obligation. A. G. 063-141.

Additional Advances Secured by Mortgage.

Intangible personal property taxes are due on additional advances, whether or not such additional advances increase the current obligation beyond the original mortgage, and that promissory notes used in connection with the original obligation and the additional advances are subject to documentary stamp taxes. A. G. 064-49.

201.10 Certificates of deposit issued by banks exempt.—All certificates of deposit issued by any bank, banking association, or trust company are exempt from the requirement for an excise tax imposed by this chapter.

History.—§2, ch. 19068, 1939; CGL 1940 Supp. 1279(119).

201.11 Administration of law by comptroller.—The administration of this chapter shall be vested in the comptroller of the state, who shall prescribe suitable rules and regulations for the enforcement of the provisions thereof, and shall administer and enforce the taxes levied and imposed by this chapter. He may enter upon the premises of any taxpayer, and examine or cause to be examined by any agent or representative designated by him for that purpose, any books, papers, records, or memoranda bearing upon the amount of taxes payable, and secure other information directly or indirectly concerned in the enforcement of this chapter. Any person, subject to this tax, who shall by any practice or evasion make it difficult to enforce the provisions of this chapter by inspection, or any person, agent or officer, who shall, after demand by the comptroller or any agent or representative designated by him for that purpose, refuse to allow full inspection of the premises or any part thereof, or any books, records, documents, or other instruments in any way relating to the liability of the tax payer

for the tax herein imposed, or shall hinder or in any wise delay or prevent such inspection, shall be guilty of a misdemeanor, and upon conviction shall be punished accordingly.

History.—§2, ch. 15787, 1931; CGL 1936 Supp. 1279(112), 7473(5).
cf.—§775.07 Punishment for misdemeanor.

201.12 Duties of clerks of the circuit court.—Clerks of the circuit court shall report to the comptroller the names and addresses of any and all individuals, firms or corporations, who shall fail to have affixed the required amount of stamps of any conveyance or taxable instrument or document which may be recorded in their respective offices; and any such clerk who knowingly fails to report any such violation within thirty days after recording of any taxable instrument or document, without such stamps, shall be deemed guilty of a misdemeanor and upon conviction punished accordingly.

History.—§2, ch. 15787, 1931; CGL 1936 Supp. 1279(113), 7473(6).
cf.—§775.07 Punishment for misdemeanor.

201.13. Comptroller to furnish stamps for tax.—The comptroller of the state shall cause to be prepared and distributed for the payment of the taxes prescribed in this chapter, suitable stamps denoting the tax on the documents to which same are required to be affixed, and shall prescribe such method for affixing of said stamps as shall be necessary to carry out and comply with the intent and purpose of this chapter.

History.—§3, ch. 15787, 1931; CGL 1936 Supp. 1279(114).

201.131 Metering machines.—

(1) The taxes imposed by this chapter may also be paid through the use of excise tax on documents stamp insignia to be applied by the use of metering machines. The comptroller of the state shall prescribe and promulgate appropriate rules and regulations governing the use of metering machines, the procedure for the payment of such excise taxes on documents through the use thereof, requiring adequate surety bonds of the non-governmental users thereof to assure the proper use of such machines and the payment of all excise taxes on documents, and all other rules and regulations necessary and proper to govern the use of same.

(2) Users of such metering machines will have to supply such machines at their own expense.

(3) All provisions of this chapter governing the use of excise tax in documents stamps and pertaining to the payment of such excise taxes through the use of stamps shall likewise be applicable, where appropriate, to the payment of such taxes through the use of metering machines.

History.—§3, ch. 57-107.

201.14 Cancellation of stamps when used, etc.—Whenever an adhesive stamp is used for denoting any tax imposed by this chapter on documents, the person using or affixing the same shall write or stamp or cause to be written or stamped thereon, the initials of his or its name, and the date upon which same is attached or used, so that the same may not again be used. Stamps shall be affixed in such manner that their removal will require continued application of steam or water; provided, that the comptroller may prescribe such other method for the cancellation of such stamps as he may deem expedient.

History.—§5, ch. 15787, 1931; CGL 1936 Supp. 1279 (116).

201.15 Distribution of taxes collected.—All taxes collected under the provisions of this chapter shall be paid into the state treasury to the credit of the general revenue fund of the state, to be used and expended for the purposes for which said general revenue fund was created and exists by law.

History.—§6, ch. 15787, 1931; CGL 1936 Supp. 1279 (117).

201.16 Other laws made applicable to chapter.—All revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this chapter, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, or writing named herein.

History.—§3, ch. 15787, 1931; CGL 1936. 1279 (115).

201.17 Penalties for failure to pay tax required.—Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, or whoever makes use of any adhesive stamp to denote any tax imposed by this chapter without canceling or obliterating such stamps as herein provided, shall be guilty of a misdemeanor, and upon conviction shall be punished accordingly.

History.—§4, ch. 15787, 1931; CGL 1936 Supp. 7473 (7).
cf.—§775.07 Punishment for misdemeanor.

201.18 Penalties for illegal use of stamps, etc.—Whoever fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, or document, upon which any tax is imposed by this chapter, any adhesive stamp used in pursuance of this chapter, or fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, or document, upon which any tax is imposed by this chapter (1) any adhesive stamp which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, or document, upon which any tax is imposed by this chapter, or (2) any adhesive stamp of insufficient value, or (3) any

forged or counterfeited stamp; or whoever willfully removes or alters the cancellation or defacing marks of, or otherwise prepares any adhesive stamp with intent to use or cause the same to be used after it has already been used, or knowingly or willfully buys, sells, offers for sale, or gives away any such washed or restored stamp to any person for use, or knowingly uses the same, or whoever knowingly and without lawful excuse has in possession any washed, restored, or altered stamp which has been removed from any vellum, parchment, paper, instrument, writing, or document; or whoever knowingly or willfully prepares, buys, sells, offers for sale, or has in his or its possession any counterfeit stamps, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than five hundred dollars, or imprisonment of not less than twelve months.

History.—§4, ch. 15787, 1931; CGL 1936 Supp. 7473 (7).
cf.—§775.06 Alternative punishment.

201.19 Forfeiture for illegally avoiding tax on notes.—Any person, either maker or payee, who shall attach to any original note any other note which is not in fact a renewal of the original note without paying the tax and affixing the stamps required by law on each and all of such notes, shall forfeit to the state a sum of money equal to twice the face value of all such notes as may be so attached, and the comptroller of the state shall direct the state attorney of the judicial circuit within which such parties or any of them reside, or where the act was committed, to bring suit in the name of the state to collect the amount due, and such state attorney shall institute and prosecute to judgment and collection the amount due, and the maker and the payee shall be jointly and severally liable for the payment thereof.

History.—§3, ch. 19068, 1939; CGL 1940 Supp. 1279 (120).

201.20 Penalties for illegally avoiding tax on notes.—Any person using the provisions of §201.09 to avoid the payment of any tax justly due shall be guilty of a misdemeanor, and upon conviction shall be punished by fine of not more than five hundred dollars, or by imprisonment in the county jail of not more than six months.

History.—§4, ch. 19068, 1939; CGL 1940 Supp. 7373 (7a).
cf.—§775.06 Alternative punishment.

201.21 Notes and other written obligations exempt under certain conditions.—There shall be exempt from all excise taxes imposed by chapter 201, all promissory notes, non-negotiable notes and other written obligations to pay money bearing date subsequent to July 1, 1955, hereinafter referred to as “principal obligations,” when the maker thereof shall pledge or deposit with the payee or holder thereof pursuant to any agreement commonly known as a wholesale warehouse mortgage agreement, as collateral security for the payment thereof,

any collateral obligation or obligations, as hereinafter defined, provided all excise taxes imposed by this chapter upon or in respect to such collateral obligation or obligations shall have been paid. If the indebtedness evidenced by any such principal obligation shall be in excess of the indebtedness evidenced by such collateral obligation or obligations, the exemption provided by this section shall not apply to the amount of such excess indebtedness, and in such event, the excise taxes imposed by this chapter shall apply and be paid only in respect to such excess of indebtedness of such principal obligation. The term "collateral obligation" as used in this section shall mean any note, bond or other written obligation to pay money secured by mortgage, deed of trust or other liens upon real or personal property.

History.—§1, ch. 29981, 1955.

COMPTROLLER'S RULINGS

Wholesale Warehouse Obligations.

Section 201.21 F. S. exempting principal obligations secured by collateral obligations pledged or deposited with payee or holder is strictly construed and limited to those obligations secured by collateral pledged or deposited "pursuant to a wholesale warehouse mortgage agreement." Obligations are not exempt when maker shall pledge or deposit with payee or holder collateral obligation unless the pledge or deposit is made pursuant to an agreement commonly known as wholesale warehouse mortgage agreement. A. G. 55-162; A. G. 55-233.

Wholesale Warehouse Mortgage Agreements; Definition, Principal Obligation.

"Agreements commonly known as wholesale warehouse agreements," relate to those agreements by and between money lenders and borrowers whereby a line of credit is extended, which is secured by the deposit of securities which change from time to time by the maturity and payment of some and the addition of others. The terms of the principal obligation, as defined in Section 201.21, Florida Statutes, might be sufficient to constitute a wholesale warehouse mortgage agreement. However, such a determination must be made from all the writings making up the agreement. A. G. 064-82.

201.22 Financing statements under chapter 679 of the uniform commercial code.—The excise tax on documents provided by this chapter shall be applicable to transactions covered by the uniform commercial code to the same extent that it would be if the code had not been enacted. The clerk or filing officer shall not accept for filing or filing and recording any financing statement under chapter 679, unless there appears thereon the notation that the stamps required by this chapter have been placed on the promissory instruments secured by said financing statement and will be placed on any additional promissory instruments, advances or similar instrument that may be secured by said financing statement. The failure to pay the tax required by this chapter as so stated, shall be subject to the penalties provided by this chapter.

History.—§1, ch. 65-254.

*Note.—Effective 12:01 A.M. January 1, 1967.

CHAPTER 4C

Documentary Stamp Tax

4C-1.01 Definitions.—For the purpose of Ch. 201, F. S., and documentary stamp rules, the following words have the meaning indicated:

(1) Stamp tax agent—The several clerks of the circuit courts and other persons or firms authorized and employed by the Comptroller to collect documentary stamp taxes.

(2) Inspector—The State Comptroller's personal representative for the enforcement of documentary stamp tax collections.

4C-1.02 Stamps on documents sent out-of-state.—Where original documents subject to documentary stamp tax are to be transmitted to and maintained in other states, by the owner or holder thereof, except in those instances where the statutes specifically require the stamping of the original document, the documentary stamps are to be placed on and affixed to the true and correct copies of the original maintained in this state.

4C-1.03 Retail sales, individual contracts; procedure.—Where a daily tabulation is made of the amount of documentary stamp tax due on each individual contract including add-ons and old balances shown thereon to be compiled into a monthly report for the purpose of determining the amount of documentary stamp tax due and owing the state for that month, the stamps may be placed on this monthly report, subject to prior approval by the Comptroller.

4C-1.04 Meter machines.—

(1) Documentary stamp tax machines may be used by stamp tax agents only upon prior approval of the Comptroller. Metering machines may be used only in locations where inspectors may reset the machine without additional travel expense to the state, unless the travel expense of the inspector from location to location is paid by the stamp tax agents. A surety bond in at least the amount of anticipated sales of stamps during one-half of a month is required.

(2) Meter machines shall be kept locked against unauthorized or accidental use. Keys necessary to increase the descending total shall be held by and kept in the possession of an inspector.

(3) Stamps dispensed through a meter machine shall be affixed to the instrument on the date issued within the office of the tax stamp agent and shall not be sold for outside use. Each stamp shall be dated and the date on the stamp shall serve as the cancellation date of the stamp. All spoilage or misprints resulting from inaccurate operation or

failure of the meter machine will be refunded only after evidence acceptable to the Comptroller and the State Auditor has been furnished.

(4) Except in cases where the stamping of an instrument is required immediately, the amount of documentary stamp tax shall be entered on the margin of each instrument in pencil during the day and the instruments accumulated for individual stamping at one time near the end of the business day. At the end of each business day, the ascending total, descending total and the balancing total shall be entered in a record, which record shall be retained by the stamp tax agent.

(5) On the first and fifteenth day of each month, unless the day falls on Saturday, Sunday or a holiday, in which case it shall be the nearest day to the first or fifteenth, the inspectors shall advance the descending meter to the amount of the surety bond covering the meter consignment account. At this time the inspector shall obtain the stamp tax agent's check, payable to Fred O. Dickinson, Jr., Comptroller, for the total money value of stamps dispensed through the meter. The inspector shall then prepare in triplicate a "documentary stamp tax meter sales report," and distribute as follows: The original, together with the remittance, to the Comptroller; the duplicate to the stamp tax agent; and, the triplicate being retained by the inspector.

(6) The ascending total on the meter machine shall not be destroyed except upon the recording of the reading by the inspector and then only upon written approval of the Comptroller.

CHAPTER 67-53

Senate Bill No. 201

AN ACT relating to the preparation and recording of certain legal instruments; providing that the name and address of the person preparing such instrument shall appear thereon; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. No instrument by which the title to real estate or any interest therein or lien thereon is conveyed, created, encumbered, assigned or otherwise disposed of shall be recorded by the clerk of the circuit court of any county of this state unless the name and address of the person who prepared such instrument is printed, typewritten or stamped on the face thereof in a legible manner. An instrument complies with this section if it contains a statement in substantially the following form:

"This instrument was prepared by
(name) (address)
.....,"

Section 2. This section does not apply to any instrument executed before the effective date of this section, nor to the following:

- (1) A decree, order, judgment or writ of any court;
- (2) A death certificate;
- (3) An instrument executed or acknowledged outside of this state.

Section 3. This act shall take effect January 1, 1968.

Became a law without the Governor's approval.

Filed in Office Secretary of State May 18, 1967.

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