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Most Common Exemptions from Tax

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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The following are some of the most common exemptions from tax:

1. *Certain Investment Companies*: There are exemptions for certain investment companies and for instruments evidencing an indebtedness of a health and educational facility corporation formed under Tennessee Code Annotated, Title 48, Chapter 101, Part 3.
2. *Credit Unions (state chartered)*. Exempt when entity is the debtor (mortgage tax) or the grantee (transfer tax). Instruments are not exempt from the mortgage tax when these entities are the secured party and the debtor is not exempt. T.C.A. § 45-4-803.
3. *Electric Cooperatives and Electric Membership Corporations*. Exempt when entity is the debtor (mortgage tax) or the grantee (transfer tax). Instruments are not exempt from the mortgage tax when these entities are the secured party and the debtor is not exempt. T.C.A. § 65-25-122.
4. *Fannie Mae, Freddie Mac and Sallie Mae*. Exempt when entity is the debtor (mortgage tax) or the grantee (transfer tax). Instruments are not exempt from the mortgage tax when these entities are the secured party and the debtor is not exempt. 12 U.S.C. § 1723a and 12 U.S.C. § 1452.
5. *Farm Credit Services (production credit associations)*. Exempt when entity is the debtor or secured party (mortgage tax) or the grantee (transfer tax). 12 U.S.C. § 2077.
6. *Farmer's Cooperatives*: Exempt when entity is the debtor (mortgage tax) or the grantee (transfer tax). Instruments are not exempt from the mortgage tax when these entities are the secured party and the debtor is not exempt. T.C.A. § 43-16-145.
7. *Federal Credit Unions*. Exempt when entity is the debtor (mortgage tax) or the grantee (transfer tax). Instruments are not exempt from the mortgage tax when these entities are the secured party and the debtor is not exempt. T.C.A. § 45-4-803 and 12 U.S.C. § 1768.
8. *FHA*. Same as THDA.
9. *Governmental Entities*. All transfers of realty in which a "municipality" is the grantee or transferee and all instruments evidencing an indebtedness in which a "municipality" is the holder or owner of the indebtedness are exempt from the transfer or "mortgage" tax as the case may be. For the purposes of these two taxes, "municipality" means the state of Tennessee or any county, or incorporated city or town, utility district, school district, power district, sanitary district, or other municipal, quasi-municipal, or governmental body or political subdivision of this state and any agency, authority, branch, bureau, or instrumentality of this state. T.C.A. § 67-4-409(f). Additionally, when a governmental entity (federal, state or local) is the debtor, the instrument is exempt from the "mortgage" tax under the judicial doctrine of sovereign immunity.
10. *Local Utilities*. If the utility is a "municipality" that is a governmental entity (such as a county, municipality, utility district, power district, sanitary district or local authority) then the instrument is exempt from the recording tax if the utility is the owner or holder of the indebtedness (mortgage tax) or is the grantee of a freehold interest in real estate (transfer tax). T.C.A. § 67-4-409(f). A utility that is a governmental entity and is the debtor in an instrument evidencing indebtedness is exempt from paying the mortgage tax under the doctrine of sovereign immunity. Utilities that are not governmental entities, such as private utilities and cooperatives, are not exempt from the transfer or mortgage tax under T.C.A. § 67-4-409(f) and are subject to the recording taxes unless another specific statute (federal or state) provides for an exemption (which is the case in some instances).
11. *Telephone Cooperatives*. Exempt when entity is the debtor (mortgage tax) or the grantee (transfer tax). Instruments are not exempt from the mortgage tax when these entities are the secured party and the debtor is not exempt. T.C.A. § 65-29-129.
12. *THDA*. Exempt when entity is the debtor or the secured party (mortgage tax) or the grantee (transfer tax). This entity is not exempt from the mortgage tax when it is the guarantor and a private party, such as a bank, is the secured party and the debtor is a private party. The recording is exempt from the mortgage tax when THDA is assigned a security interest in the document. T.C.A. §§ 13-23-127(a) and 67-4-409(f).

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