

WAC 458-61A-109 Trading/exchanging property and boundary line adjustments. (1) **Trading/exchanging property.** The real estate excise tax applies when real property is conveyed in exchange for other real property or any other valuable property. The real estate excise tax is due on the true and fair value for each individual property.

(2) **Boundary line adjustments.**

(a) **Introduction.** A boundary line adjustment is a legal method to make minor changes to existing property lines between two or more contiguous parcels. Real estate excise tax may apply depending upon the specific circumstances of the transaction. Boundary line adjustments include, but are not limited to, the following:

- (i) Moving a property line to follow an existing fence line;
- (ii) Moving a property line around a structure to meet required setbacks;
- (iii) Moving a property line to remedy a boundary line dispute;
- (iv) Moving a property line to adjust property size and/or shape for owner convenience; and
- (v) Selling a small section of property to an adjacent property owner.

(b) **Boundary line adjustments in settlement of dispute.** Boundary line adjustments made solely to settle a boundary line dispute are not subject to real estate excise tax if no other consideration is present.

(c) **Taxable boundary line adjustments.** In all cases, real estate excise tax applies to boundary line adjustments if there is consideration (other than resolution of the dispute), such as in the case of a sale or trade of property.

(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Mr. Jehnsen and Mr. Smith own adjoining parcels of land separated by a fence. During a survey to confirm the property boundary of Mr. Smith's parcel, the parties discover that the true property line actually extends five feet over on Mr. Jehnsen's side of the fence. Mr. Jehnsen does not want to move the fence. He has paved, landscaped and maintained this section of land and if he gave it up he would lose his parking area. After numerous discussions regarding the property line, Mr. Smith agrees to quitclaim the five-foot section of land to Mr. Jehnsen. Real estate excise tax does not apply since there is no consideration other than resolution of the dispute.

(b) Mr. Smith will only agree to transfer the five-foot section of land to Mr. Jehnsen if he is paid \$1,000. Mr. Smith owes real estate excise tax on \$1,000.

(c) Mr. Smith will cede the five-foot parcel only if Mr. Jehnsen gives him a narrow strip of land in exchange. Mr. Jehnsen agrees to exchange a ten-foot section of his parcel for the five-foot section of Mr. Smith's parcel solely to resolve the boundary line dispute. Real estate excise tax does not apply. It is irrelevant that the property involved in the transfer is not equal since the sole purpose of the transfer is to settle a boundary line dispute.

(d) Mr. Smith and Mr. Jehnsen are unable to resolve their dispute over the five-foot parcel. Mr. Jehnsen agrees to trade his lake front cabin for Mr. Smith's entire parcel. Mr. Jehnsen will owe real estate excise tax on the fair market value of the lake front cabin. Mr. Smith owes real estate excise tax on the fair market value of his parcel.

(e) Mr. Smith wants something in exchange for giving the five-foot parcel to Mr. Jehnsen. Mr. Jehnsen agrees to give Mr. Smith his tractor in exchange for the five-foot section of land. Mr. Smith will owe real estate excise tax on the fair market value of the five-foot section of his parcel and use tax on the value of the tractor (see WAC 458-20-178).

(f) Mr. Robbins owns 18 acres of land adjacent to Ms. Pemberton's 22-acre parcel. Mr. Robbins would like to develop his 18 acres, but he needs two more acres to develop the land. Ms. Pemberton agrees to give Mr. Robbins two acres of land. In exchange Mr. Robbins agrees to pave Ms. Pemberton's driveway as part of the land development. The real estate excise tax is due on the true and fair value of the two acres conveyed to Mr. Robbins. In addition, sales or use tax may be due on the value of the paving.

(4) **Documentation.** In all cases, an affidavit is required to record the new property line.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. WSR 05-23-093, § 458-61A-109, filed 11/16/05, effective 12/17/05.]