

WAC 458-61A-103 Transfers involving an underlying debt. (1) **Introduction.** The real estate excise tax applies to transfers of real property when the grantee relieves the grantor from an underlying debt on the property or makes payments on the grantor's debt. The measure of the tax is the combined amount of the underlying debt on the property and any other consideration.

(2) **Consideration.** Consideration includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance remaining unpaid on the property at the time of sale. It does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. RCW 82.45.030(3).

(3) **Examples.** This rule includes a number of examples that identify a set of facts, and then state a conclusion. These examples are only a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) **Example 1.** Yen transfers property to Lee that is subject to an underlying debt (i.e., mortgage). Lee agrees to make all future mortgage payments on Yen's debt, but gives no other consideration for the property. Yen owes real estate excise tax on the amount of the underlying debt. Lee's payments on the underlying debt relieve Yen of her debt obligation. Therefore, Yen receives consideration.

(b) **Example 2.** Same facts as above, except Lee also paid Yen \$10,000 in addition to making the mortgage payments. In this circumstance, the measure of the real estate excise tax is the amount of the mortgage outstanding at the time of sale, plus the additional consideration paid of \$10,000.

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 82.45.150, and 82.45.030. WSR 19-08-015, § 458-61A-103, filed 3/22/19, effective 4/22/19. Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. WSR 05-23-093, § 458-61A-103, filed 11/16/05, effective 12/17/05.]