

This notice was modified on March 5, 2012.

Department of Revenue

Modification of Revenue Notice # 01-05: Mortgage Registry Tax – Exemption for Mortgages that Secure Loans Made Under Qualifying Government Affordable Housing Programs

Introduction

This Revenue Notice addresses the mortgage registry tax exemption enacted by the 2001 Legislature for mortgages that secure loans made under qualifying affordable housing government programs. The exemption is set forth in *Minnesota Statutes*, section 287.04, clause (f), as follows:

“The principle amount of a mortgage loan made under a low and moderate income or other affordable housing program, if the mortgagee is a federal, state, or local government agency.”

There are two primary requirements for this exemption. First, the loan must be authorized under a low and moderate income or other affordable housing program; and, second, the mortgagee must be a governmental entity. Both of these criteria are to be evaluated as of the date that the mortgage is submitted for recording or registration.

Both requirements must be satisfied. For example, under *United States Code*, title 12, section 1701q, the secretary of the United States Department of Housing and Urban Development may advance funds to a private non-profit organization to finance the construction of supportive-housing for very low income elderly persons. If the non-profit organization uses the funds to make a construction loan that is secured by a mortgage, that mortgage would not be exempt under clause (f) even though the construction loan is being made under, and is being used for the purposes of, the cited federal statute. The construction-loan mortgage in this example would not qualify for the exemption in clause (f) because the mortgagee is not a government agency.

Department Positions

1. Generally

In general, any mortgage loan given by the government for income-restricted housing will qualify for this exemption. The borrower might be the current owner of the property, a prospective buyer, or a person who intends to develop the property. Generally, income restrictions are imposed with respect to the intended occupant(s) of the property. However, some affordable housing programs do not have income restrictions. Instead, the assistance provided by the program may only be used for housing that does not exceed the program’s valuation limits. Mortgages that secure loans given out under these types of programs will qualify for this exemption if the other requirements are satisfied.

2. Low and Moderate Income and Other Affordable Housing Programs

For purposes of this exemption from the Minnesota mortgage registry tax, the phrase "mortgage loan made under a low and moderate income and other affordable housing program" includes, but is not limited to, loans made under any of the following programs, to the extent that repayment of the loan is secured by a mortgage on real estate that is located within Minnesota:

- a capital advance made under *United States Code*, title 12, section 1701q (HUD program; supportive housing for the elderly);

- a loan made under *United States Code*, title 12, section 1715z-1(s) (HUD program; rehabilitation of multifamily projects);
- a loan made under *United States Code*, title 42, section 1472 (HUD program; housing and buildings on adequate farms);
- a loan made under *United States Code*, title 42, section 1485 (HUD program; housing and related facilities for elderly persons and families or other persons and families of low income);
- a capital advance made under *United States Code*, title 42, section 1490b (HUD program; housing for rural trainees);
- a loan made under *United States Code*, title 42, section 1490d (HUD program; loans to nonprofit organizations to provide building sites for eligible families);
- a loan made under *United States Code*, title 42, section 1490f (HUD program; loans for condominium housing in rural areas);
- a loan made under *Minnesota Statutes*, section 462A.05, subdivision 14 (MHFA program; rehabilitation loans);
- a loan made under *Minnesota Statutes*, section 462A.05, subdivision 14a (MHFA program; rehabilitation loans);
- a loan made under *Minnesota Statutes*, section 462A.05, subdivision 14d (MHFA program; accessibility loans);
- a loan made under *Minnesota Statutes*, section 462A.05, subdivision 18a (MHFA program; innovative housing loans);
- a loan made under *Minnesota Statutes*, section 462A.05, subdivision 36 (MHFA program; lease-purchase housing);
- a loan made under *Minnesota Statutes*, section 462A.05, subdivision 39 (MHFA program; equity take-out loans);
- a loan made under *Minnesota Statutes*, section 462A.07, subdivision 15 (MHFA program; urban Indian housing program);
- a loan made under *Minnesota Statutes*, section 462A.201 (MHFA program; housing trust fund loans for the development, construction, acquisition, preservation, and rehabilitation of low-income rental and limited equity cooperative housing units);
- a loan made under *Minnesota Statutes*, section 462A.203 (MHFA program; housing preservation program);
- a loan made under *Minnesota Statutes*, section 462A.204 (MHFA program; family homeless prevention and assistance program);

- a loan made under *Minnesota Statutes*, section 462A.206 (MHFA program; community rehabilitation);
- ~~a loan made under *Minnesota Statutes*, section 462A.207 (MHFA program; mortgage foreclosure prevention and emergency rental assistance);~~
- a loan made under *Minnesota Statutes*, section 462A.209 (MHFA program; home ownership assistance);
- a loan made under *Minnesota Statutes*, section 462A.2093 (MHFA program; innovative and inclusionary housing program);
- a loan made under *Minnesota Statutes*, section 462A.21, subdivision 7 (MHFA program; energy efficiency loans);
- a loan made under *Minnesota Statutes*, section 462A.21, subdivision 8 (MHFA program; home ownership assistance fund);
- a loan made under *Minnesota Statutes*, section 462A.21, subdivision 8b (MHFA program; family rental housing);
- a loan made under *Minnesota Statutes*, section 462A.33 (MHFA program; economic development and housing challenge program);
- a loan made under *Minnesota Statutes*, section 469.016 (regional, county or municipal housing and redevelopment authority program; low rent housing);
- a loan made under *Minnesota Statutes*, section 469.017 (regional, county or municipal housing and redevelopment authority program; housing development projects); or,
- a loan made to meet the affordable housing goals negotiated under *Minnesota Statutes*, section 473.254 (metropolitan council program; local housing incentives).

3. Federal, State or Local Government Agency

(a) For purposes of this exemption from the Minnesota mortgage registry tax, federal agencies include, but are not limited to, the following.

- Arrowhead Economic Opportunity Agency
- Farm Credit Banks
- Farmers Home Administration
- ~~Farm Housing Assistance~~
- Federal Credit Unions
- Federal Deposit Insurance Corporation
- Federal Financing Bank
- Federal Home Loan Bank
- Federal Home Loan Mortgage Corporation (“Freddie Mac”)
- Federal Land Bank Associations

- Federal National Mortgage Association (“Fannie Mae”)
- Federal Reserve Banks
- Government National Mortgage Association (“Ginnie Mae”)
- National Consumer Cooperative Bank
- Resolution Trust Corporation
- ~~Rural Housing Service~~
- Small Business Administration
- U.S. Department of Agriculture Rural Development
- U.S. Department of Housing and Urban Development
- U.S. Rural Utilities Service (RUS)

(b) For purposes of this exemption from the Minnesota mortgage registry tax, state agencies include, but are not limited to, the following.

- Minnesota Agricultural Economic Development Board
- Minnesota Department of Trade and Economic Development
- Minnesota Housing Finance Agency
- Minnesota Rural Finance Authority
- Minnesota Valley Action Council
- Iron Range Resources and Rehabilitation Board
- Greater Minnesota Housing Fund

(c) For purposes of this exemption from the Minnesota mortgage registry tax, local government agencies include, but are not limited to, the following.

- all 87 county governments
- all 854 city governments
- all 1,811 township governments
- city housing and redevelopment authorities
- county housing and redevelopment authorities
- multi-county housing authorities
- Mpls/St. Paul Family Housing Fund
- Ramsey Action Programs, Inc.
- ~~Northside or Southside~~ Neighborhood Housing Service, Inc.
- Northeast Minnesota Housing Consortium
- Intercounty Community Council
- Community Neighborhood Housing Services
- Riverview Economic Development Association
- ~~North East~~ North East Neighborhoods Development

4. Required Documentation

Documentation which identifies the specific housing program, and the specific government agency must be submitted with the mortgage. This documentation may either be a statement incorporated into the body of the mortgage document, or a separate statement that is signed by an officer or delegate of the mortgagee governmental agency and attached to and recorded as a part of the mortgage.

5. Effective date

The exemption is effective for mortgages that are both acknowledged and recorded on or after August 1, 2001. “Acknowledged” means that the mortgagor has signed a notarized statement appearing within the document stating that they caused the document to be prepared, and have signed it, for the purposes stated therein.

~~Jennifer L. Engh
Assistant Commissioner for Tax Policy~~

~~Publication Date: October 15, 2001~~

Publication Date: March 5, 2012

SUSAN VON MOSCH, Assistant Commissioner
for Tax Policy

***Key: Underlining indicates additions to existing Revenue Notice language. Strikeouts indicate deletions from existing Revenue Notice language.**

Please see next page for a clean, printable copy of this notice as modified.

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