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# Taxes Required to be Paid before Recording a Conveyance, Deed or Other Instrument

## Part 1 -- Delinquent Tax

### Certifications (Minn. Stat. 272.12)

Delinquent taxes must be paid in order to record a conveyance of land. For this purpose, "delinquent" taxes are those deemed delinquent under Minn. Stat. 279.02 even if they are being contested; and, includes special assessments as well as other charges that are entitled to appear on the property tax statement and to be collected as property taxes. Refunds of amounts erroneously paid as delinquent taxes in order to accomplish a recording are to be paid from the funds into which the payments were placed. M. S. 272.12 provides in general terms that a "conveyance" for this purpose is:

- a) a negotiated instrument that either conveys absolute title to real property or that creates, terminates, or transfers an interest in real property such as an easement;
- b) a plat;
- c) a survey required under Minn. Stat. 508.47;
- d) a plat of a condominium subject to Minn. Stat., chapter 515 or 515A, or a declaration that contains such a plat;
- e) (a plat of a common interest community subject to Minn. Stat. chapters 515B, or a declaration that contains such a plat.

### Specific documents that convey land

*(includes pre-dated and post-dated documents)*

*Although plats and surveys do not convey land, certain ones are subject to the delinquent-taxes-paid requirement.*

- **Deeds.** General warranty, special warranty, and quitclaim deeds (M.S. 272.12)

- **Contracts for deed.** A contract for deed (Op.Atty.Gen., 418a-14, Mar. 6, 1967); or, a document that evidences the cancellation of a contract for deed under M. S. 559.21, subd. 4(e)

- **Leases.** Leases of three years or more (Op.Atty.Gen., 373-B-17-e, Sept. 9, 1952)

- **Foreclosure sale certificates.** Instruments that assign a sheriff's or referee's certificate of sale for real property. The original issuance of a certificate of sale to the purchaser at a foreclosure sale (i.e., the new owner) is exempt from this requirement (M.S. 272.12).

- **Foreclosure redemption certificates.** Certificates of redemption from a mortgage or lien foreclosure sale issued to a junior creditor convey the land; but, such certificates are exempt from this requirement (see "documents exempt" below). (M.S. 272.12) Certificates of redemption from a mortgage or lien foreclosure sale issued to the redeeming debtor/borrower do not operate to convey the property, but rather to restore that person's ownership.

- **Assignments.** Instruments that "assign" a contract, certificate, lease, or right, if they operate to convey the land or an interest in the land (Op.Atty.Gen., 1922, No. 164, p. 162; Op.Atty.Gen., 373-B-9-e, Mar. 16, 1948)

**Specific documents exempt from the requirement for a delinquent-taxes-paid certification**

- **Affidavits of survivorship (including Affidavit of Survivorship for Joint Tenants and Affidavit of Survivorship for Transfer on Death Deeds)** are not “conveyances” for this purpose
- **Agents and nominees.** A deed or instrument that transfers real property from an agent or nominee (i.e., someone who holds title to real property in their name, gratuitously or for a fee, when the property in fact belongs to another) to their principal
- **Corrective deed** (M. S. 272.15)
- **Decrees and judgments** (a decree or judgment that affects title to land but does not convey land may be recorded without presentation to the auditor) (M.S. 272.12)
- **Easements.** Instrument releasing, removing, or discharging an easement, a right, or a restriction (M.S. 272.12)
- **Easements.** Instrument conveying an appurtenant easement (although the portion of the instrument that conveys the dominant parcel remains subject to the delinquent tax certification requirement) (M.S. 272.12)
- **Easements.** Instrument conveying an easement to a public utility (which might include a pipeline company) (M.S. 272.12)
- **Foreclosure sale certificates.** Sheriff’s or referee’s certificate of sale on execution or foreclosure of a lien or mortgage (M. S. 272.12)
- **Foreclosure redemptions.** Certificate of redemption from a mortgage or lien foreclosure sale issued to a redeeming mortgagor or lienee, which includes junior creditors (according to Black’s Law Dictionary,

9th Ed., a “lienee” is either the person who owns property on which there is a lien, or the person who owns that lien) (M.S. 272.12)

- **Government grantees.** A conveyance of real property to the government (i.e., the United States, the state of Minnesota, or a political subdivision or agency of either) (Op.Atty.Gen. 1936, No. 329, p. 391)
- **Mortgages** (Op.Atty.Gen., 371-B-8, May 31, 1950)
- **Patents** (M.S. 272.12)
- **Personal property.** Bill of sale for property deemed to be personal property under the common law, for instance a structure or improvement on the land that the parties intend to be owned separately from the land (but see M.S. 272.38-.42 for restrictions on the removal of improvements prior to payment of the taxes)
- **Plats.** Copy of town or statutory city plat (when previously-filed plat was lost or destroyed) (M.S. 272.12)
- **Probate.** Deed of distribution by a personal representative in a probate proceeding (M.S. 272.12)
- **Receivers receipts** (M.S. 272.12)
- **Transfer on death deed** under Minn. Stat. 507.071 (M.S. 272.12)
- **Unit developments.** Documents governing homeowners associations of condominiums, townhouses, common interest communities, and other planned unit developments are entitled to be recorded without the auditor’s certificate to the extent provided in M. S. 515B.1-116(e) (M.S. 272.12) Generally, the current taxes must be paid in order to record

an instrument that creates or changes unit boundaries.

▪ **Undivided interests.** Deed or instrument conveying an undivided interest, upon payment of the proportional share of the delinquent taxes (M. S. 272.14)

## **Part 2 – Current Taxes upon Split of Parcel** (Minn. Stat. 272.121)

Property taxes due in the current year must be paid in order to record a deed or other instrument that conveys less than the whole of a tax parcel. The taxes due in the current year includes special assessments as well as other charges that are entitled to appear on the property tax statement and to be collected as property taxes if the amount is included on the property tax statement for taxes payable in the current year. Refunds of amounts erroneously paid as current year taxes in order to accomplish a recording are to be paid from the funds into which the payments were placed. In general terms, the definition of “conveyance” (and “conveys”) for this purpose is the same as it is for M. S. 272.12. A conveyance for this purpose is:

- a) a negotiated instrument that either conveys absolute title to real property or that creates, terminates, or transfers an interest in real property such as an easement.

If the transaction takes place early in the year, it may be necessary to estimate the current year taxes in order to allow for their payment and the recording of the deed or other instrument.

## **Specific documents that convey land** *(includes pre-dated and post-dated documents)*

▪ **Deeds.** General warranty, special warranty, and quitclaim deeds (M.S. 272.12)

▪ **Contracts for deed.** A contract for deed (Op.Atty.Gen., 418a-14, Mar. 6, 1967); or, a document that evidences the cancellation of a contract for deed under M. S. 559.21, subd. 4(e)

▪ **Leases.** Leases of three years or more (Op.Atty.Gen., 373-B-17-e, Sept. 9, 1952)

▪ **Foreclosure sale certificates.** Instruments that assign a sheriff’s or referee’s certificate of sale for real property. The original issuance of a certificate of sale to the purchaser at a foreclosure sale (i.e., the new owner) is exempt from this requirement (M.S. 272.12).

▪ **Foreclosure redemption certificates.** Certificates of redemption from a mortgage or lien foreclosure sale issued to a junior creditor convey the land; but, such certificates are exempt from this requirement (see “documents exempt” below). (M.S. 272.12) Certificates of redemption from a mortgage or lien foreclosure sale issued to the redeeming debtor/borrower do not operate to convey the property, but rather to restore that person’s ownership.

▪ **Assignments.** Instruments that “assign” a contract, certificate, lease, or right, if they operate to convey the land or an interest in the land (Op.Atty.Gen., 1922, No. 164, p. 162; Op.Atty.Gen., 373-B-9-e, Mar. 16, 1948)

**Specific documents exempt from the requirement for a current-taxes-paid certification**

*All documents exempt from the delinquent-taxes-paid requirement of M.S. 272.12 are also exempt from the current-taxes-paid requirement of M. S. 272.121.*

▪ **Affidavits of survivorship (including Affidavit of Survivorship for Joint Tenants and Affidavit of Survivorship for Transfer on Death Deeds)** are not “conveyances” for this purpose

▪ **Agents and nominees.** A deed or instrument that transfers real property from an agent or nominee (i.e., someone who holds title to real property in their name, gratuitously or for a fee, when the property in fact belongs to another) to their principal

▪ **Corrective deed** (M. S. 272.15)

▪ **Decrees and judgments** (a decree or judgment that affects title to land but does not convey land may be recorded without presentation to the auditor) (M.S. 272.12)

▪ **Easements.** Instrument releasing, removing, or discharging an easement, a right, or a restriction (M.S. 272.12)

▪ **Easements.** Instrument conveying an appurtenant easement (although the portion of the instrument that conveys the dominant parcel remains subject to the delinquent tax certification requirement) (M.S. 272.12)

▪ **Easements.** Instrument conveying an easement to a public utility (which might include a pipeline company) (M.S. 272.12)

▪ **Foreclosure.** A “split” acquired by a lender through execution of a lien may be recorded if the proper portion of the current taxes due on whole parcel is paid (M.S. 272.16, subd. 2)

▪ **Foreclosure sale certificates.** Sheriff’s or referee’s certificate of sale on execution or foreclosure of a lien or mortgage (M. S. 272.12)

▪ **Foreclosure redemptions.** Certificate of redemption from a mortgage or lien foreclosure sale issued to a redeeming mortgagor or lienor, which includes junior creditors (according to Black’s Law Dictionary, 9th Ed., a “lienor” is either the person who owns property on which there is a lien, or the person who owns that lien) (M.S. 272.12)

▪ **Government grantees.** A conveyance of real property to the government (i.e., the United States, the state of Minnesota, or a political subdivision or agency of either) (Op.Atty.Gen. 1936, No. 329, p. 391)

▪ **Mortgages** (Op.Atty.Gen., 371-B-8, May 31, 1950)

▪ **Patents** (M.S. 272.12)

▪ **Personal property.** Bill of sale for property deemed to be personal property under the common law, for instance a structure or improvement on the land that the parties intend to be owned separately from the land (but see M.S. 272.38-.42 for restrictions on the removal of improvements prior to payment of the taxes)

▪ **Plats.** Copy of town or statutory city plat (when previously-filed plat was lost or destroyed) (M.S. 272.12). Generally, plats do not qualify as “conveyances,” however other statutes, for instance M.S. 505.04, may require payment of current taxes on a whole parcel before a plat can be recorded.

▪ **Probate.** Deed of distribution by a personal representative in a probate proceeding (M.S. 272.12)

## **Taxes Required to be Paid before Recording a Conveyance, Document, or Other Instrument**

Delinquent Tax Certifications (Minn. Stat. 272.12) & Current Taxes upon Split of Parcel (Minn. Stat. 272.121)

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### **▪ Receivers receipts** (M.S. 272.12)

▪ **Surveys.** Generally, surveys do not qualify as "conveyances," but other statutes, for instance M.S. 508.47, may require payment of current taxes on a whole parcel before a registered survey can be recorded.

▪ **Transfer on death deed** under Minn. Stat. 507.071 (M.S. 272.12)

▪ **Unit developments.** Documents governing homeowners associations of condominiums, townhouses, common interest communities, and other planned unit developments are entitled to be recorded without the auditor's certificate to the extent provided in M. S. 515B.1-116(e) (M.S. 272.12). Generally, the current taxes must be paid in order to record an instrument that creates or changes unit boundaries.

▪ **Undivided interests.** Deed or instrument conveying an undivided interest, upon payment of the proportional share of the delinquent taxes (M. S. 272.14)