

WAC 458-61A-209 Rescission of sale. (1) **Introduction.** The reconveyance of property due to a rescission of sale is not subject to the real estate excise tax.

(2) **Consideration must be repaid to buyer.** To qualify for exemption under this rule, all consideration paid toward the selling price must be returned by the seller to the buyer at the time of the reconveyance.

(a) A seller may retain interest paid by the buyer without disqualifying the exemption.

(b) The payment of a reasonable reimbursement for site improvements will not disqualify the exemption.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a reconveyance may or may not be exempt on the basis of a rescission of sale. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Scott sold his property to Mary by real estate contract for \$200,000 on January 15, 2004. Real estate excise tax was paid to Lion County. Mary gave Scott a down payment of \$10,000 and started making monthly payments of \$1,000 per month to Scott beginning March 2004. In September 2004 Mary notified Scott that she lost her job and wanted to rescind the purchase contract. Scott agreed to take the property back and returned the down payment of \$10,000, and the monthly principal payments totaling \$600 to Mary. The transfer back to Scott from Mary is exempt from real estate excise tax.

(b) Tony purchased Charlie's property by real estate contract for \$100,000 in March 2003. Real estate excise tax of \$1,780 was paid to Puget County. Tony made a \$15,000 down payment and began making \$800 monthly contract payments in May 2003. On October 31, 2004, Tony found out that the property had some minor problems and he wanted to rescind the purchase. Charlie agreed to take the property back but would not give back the money Tony had paid to Charlie for the property. Since all consideration paid toward the purchase of the property was not returned by Charlie, the transfer from Tony to Charlie does not qualify for exemption from real estate excise tax under this rule.

(c) Julie contracted to sell property to Amanda for \$150,000 in April 2004. Julie paid real estate excise tax to Rainier County before Amanda obtained financing. Amanda made a \$20,000 down payment to Julie and applied for a conventional loan to pay the balance of \$130,000. Subsequently, Amanda found out she could not qualify for a loan due to her past credit history. Amanda transferred the property back to Julie, and Julie returned the \$20,000 down payment to Amanda. The transfer back to Julie is exempt from real estate excise tax. In addition, the initial transfer from Julie to Amanda is exempt because Amanda was unable to qualify for a loan to finalize the purchase of the property.

(4) **Refunds.** See WAC 458-61A-301 for refund procedures with respect to real estate excise tax paid on original transfer when the sale is later rescinded.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. WSR 05-23-093, § 458-61A-209, filed 11/16/05, effective 12/17/05.]