



# MASSACHUSETTS DEPARTMENT OF REVENUE

## DEEDS EXCISE

TRANSFER OF REAL PROPERTY IN EXCHANGE FOR LIFE MAINTENANCE

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**FACTS:** Helen transfers her house in Waltham to her son in exchange for a promise to maintain her for the rest of her life. The house is fully paid for and worth \$180,000 at the time of the transfer.

**ISSUE:** Is a transfer of real estate in exchange for an agreement to provide maintenance for life subject to the Massachusetts deeds excise?

**DISCUSSION:** Massachusetts imposes an excise upon the transfer of any deed, instrument or other writing whereby realty sold is conveyed to a purchaser. G.L. c. 64D, § 1. The excise is based upon the consideration given for the property and applies whenever the consideration, exclusive of any lien or encumbrance remaining on the property, is greater than \$100. The tax is paid by the person making or signing the deed and is evidenced by an affixed stamp. As of July 1, 1989, the tax is \$2.00 for each \$500, or fraction, of consideration plus an additional tax of 14% of the tax imposed, i.e., \$2.28/\$500, except in Barnstable County where the rate, including surtax, is \$2.85/\$500. The rates are currently scheduled to change on July 1, 1992.

When parties exchange real estate for life maintenance, the transfer of the real estate is subject to the deeds excise. The excise is imposed on the net value of the real estate conveyed, here \$180,000, less any lien or encumbrance remaining. The house is fully paid for; there is no lien or encumbrance remaining. The excise is therefore \$820.80 ( $\$180,000/\$500 \times \$2.28$ ) and is to be paid by Helen as maker of the deed.

**DIRECTIVE:** A transfer of real estate in exchange for life maintenance is subject to the Massachusetts deeds excise, computed upon the net value of the property conveyed.

**REFERENCE:** G.L. c. 64D, § 1; DOR-D 88-18.

December 11, 1989

Stephen W. Kidder  
Commissioner of Revenue

**DOR-D  
89-15**

This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.