



**Bart L. Graham**  
Commissioner

State of Georgia  
**Department of Revenue**  
Suite 15300  
1800 Century Boulevard  
Atlanta, Georgia 30345  
(404) 417-2100

December 23, 2009



Re: Request for a Commissioner's Letter of Determination per O.C.G.A. §48-6-71 that [REDACTED] will be exempt from payment of intangible recording tax on any security instrument to which the United States of America, acting by and through the Administrator of the Rural Utilities Service, an agency of the United States Department of Agriculture, are parties.

Dear [REDACTED]

I have carefully considered your request for a letter of determination pursuant to O.C.G.A. §48-6-71 stating that [REDACTED] and one or more parties, should be exempt from paying intangible recording tax on any deeds to secure debt or other instruments, amendments or supplements to a deed to secure debt or other security instrument, entered into by and among the United States of America, acting by and through the Administrator of the Rural Utilities Service.

The copy of the draft letter that you have submitted for consideration concludes as follows:  
"This exemption applies even though the deed to secure debt or security instrument secures indebtedness owed to [REDACTED] or one or more other parties that is not the United States government or an agency of the United States government."

Notwithstanding [REDACTED] description as "a federally chartered instrumentality of the United States," [REDACTED] itself does not qualify for an exemption from payment of intangible recording tax under Ga. Comp. R. & Reg. r. 560-11-8-.14, Exemptions. As set forth by the U. S. Supreme Court in *Mo. Director of Revenue v. CoBank, ACB*, banks for cooperatives have never been exempt from state taxation.

Since [REDACTED] is not exempt, it must rely on the fact that the Rural Utilities Service, an agency of the United States Department of Agriculture, is a party to the same security instrument that

[REDACTED]

secures the indebtedness of [REDACTED]. It is generally true that Georgia's intangible recording tax is not due upon the recording of a security instrument involving a federal agency such as the Rural Utilities Service, even if the security instrument also secures the indebtedness of a non-exempt entity such as [REDACTED].

However, the Department has adopted a policy of considering these types of requests on a fact-specific, case-by-case basis, and chooses to continue this practice. It is my determination, therefore, that your specific request for issuance of a "blanket" Letter of Determination is denied.

This office will nevertheless be pleased to consider future Letter of Determination requests from [REDACTED] with respect to specific transactions, and to the extent that the security instrument at issue includes an exempt party such as the Rural Utilities Service, the Department, after examining the particular facts and finding everything in order, would generally issue a favorable "transaction-specific" ruling under such circumstances.

Sincerely,



Frank M. O'Connell  
Director, Tax Law & Policy  
Georgia Department of Revenue

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