



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2100

May 15, 2008

[REDACTED]

Re: Intangible Recording Tax Protest and Claim for Refund per § 48-6-76(c) in the amount of [REDACTED] paid upon recording a Modification of a Deed to Secure Debt with the Clerk of Superior Court, [REDACTED] on January 29, 2008. Parties are [REDACTED] (Grantor) and [REDACTED] (Grantee)

Dear [REDACTED]

I have carefully considered your intangible recording tax Protest and Claim for Refund per O.C.G.A. § 48-6-76(c) pursuant to the above-captioned matter. Your Protest and Claim for Refund, your letter dated February 7, 2008, plus all associated documents were considered in the review. It is my determination that your Claim for Refund in the amount of [REDACTED] is denied. The amount may not be refunded.

O.C.G.A. § 48-6-61 provides in pertinent part that security instruments must be filed and the intangible recording tax paid no later than ninety days from the date of execution by the parties. In this case, both date of execution of the Security Deed and the date of recording occurred on May 5, 2005. Based upon a stated maturity date therein of March 31, 2008, the Clerk of Superior Court, [REDACTED] correctly interpreted the security instrument as short term. No payment of intangible recording tax was therefore due.

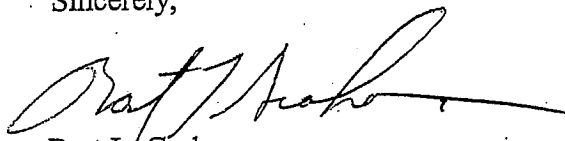
Because the Modification Agreement recorded on January 29, 2008, contained the identical date of execution (May 5, 2005) as stipulated in the original instrument, along with a new maturity date of March 31, 2018, the Clerk of Superior Court correctly interpreted the instrument to be long-term. In addition to payment of intangible recording tax that was due and payable, the Clerk correctly imposed both penalty and interest pursuant to O.C.G.A. § 48-6-61.

[REDACTED]
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In this case, adequate follow-up procedures would have alerted you to the erroneous maturity date contained in the original security instrument and allowed more than enough time for payment of the tax well within the 90-day period. That such due diligence could have prevented the assessment of the penalty, which was thus reasonably within the control of the taxpayer, tends to establish that the failure to pay the tax was not inadvertent.

A copy of this determination is being provided to the Clerk of Superior Court, [REDACTED] so that the money collected and deposited into an escrow account per O.C.G.A. § 48-6-76(b) may be distributed according to law.

Sincerely,


Bart L. Graham

BLG/RJL/mb

cc: Clerk of Superior Court, [REDACTED]