



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

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

June 26, 2008

[REDACTED]

Re: Intangible Recording Tax Protest and Claim for Refund per O.C.G.A. § 48-6-76(c) in the amount of [REDACTED] paid to the Clerk of Superior Court, [REDACTED] on May 15, 2008. Payment made per the Clerk of Superior Court's request to remedy a deficiency in the amount of intangible recording tax paid upon recording a Deed to Secure Debt on March 17, 2008. Parties are [REDACTED] (Grantor) and [REDACTED]

[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 correspondence dated May 14, 2008, and May 23, 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. § 48-6-60 defines an "instrument" or "security instrument" as any written document presented for recording for the purpose of conveying or creating a lien or encumbrance on real estate for the purposes of securing a long-term note secured by real estate.

O.C.G.A. § 48-6-61 provides that intangible recording tax is to be imposed on each instrument executed to secure a note based upon the face amount of the note secured by the instrument subject to a maximum of \$25,000.00 per security instrument. Ga. Comp. R. & Regs. r. 560-11-8-.02 Tax Payment and Rate, provides that intangible recording tax is payable on each instrument securing one or more long-term notes based on the face amount of all notes secured by the instrument. The tax is assessed on the instrument.

[REDACTED]
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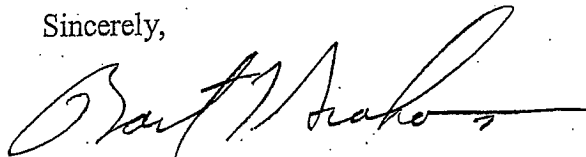
Ga. Comp. R. & Regs. r. 560-11-8-.12 Instrument Securing Short-Term and Long-Term Notes, states, "Where a single instrument secures both long-term and short-term notes, intangible recording tax is due on the sum of the amounts of both the long-term and short-term notes, up to the maximum tax allowed per instrument."

In this case, intangible recording tax in the amount of [REDACTED] was paid at the time of recording based upon the total principal amount of the security instrument's three long-term notes only, on March 17, 2008.

Having reviewed your request, and all applicable Code Sections in addition to Department of Revenue Regulations, [REDACTED] Clerk of Superior Court, [REDACTED] correctly interpreted that there existed a deficiency of intangible recording tax paid on the security instrument at the time of recording. Accordingly, additional intangible recording tax of [REDACTED] was due and payable based upon the sum total principal amount of the three short-term notes that were also secured by the instrument.

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]