



Bart L. Graham  
Commissioner

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

March 16, 2009

[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 upon recording a First Modification of Promissory Note, Deed to Secure Debt, Assignment and Security Agreement and Other Loan Documents with the Clerk of Superior Court, [REDACTED] on August 20, 2008. Parties are [REDACTED] (Borrower) and [REDACTED] (Lender)

Dear [REDACTED]

I have carefully considered your Protest and Claim for Refund of intangible recording tax per O.C.G.A. § 48-6-76(c) pursuant to the above-captioned matter. Your Protest and Claim for Refund, and your correspondence dated August 21, 2008, September 12, 2008, and September 23, 2008, plus all accompanying 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. The tax is imposed on each instrument at a rate of \$1.50 per \$500.00 or fraction thereof of the face amount of the note secured by the instrument.

Ga. Comp. R. & Regs. r. 560-11-8-.02 Tax Payment and Rate, provides in pertinent part that intangible recording tax is due and payable on each instrument securing one or more long-term notes based on the face amount of all notes secured thereby. The tax is assessed on the security instrument and paid at the time of recording. The instrument must be recorded no later than 90 days from the date of execution by the parties. The maximum tax payable on a single security instrument is \$25,000.00.

[REDACTED]  
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Ga. Comp. R. & Regs. r. 560-11-8-.06 Additional Advance, provides in pertinent part that in the case of a new note or a modification of a preexisting note, representing an additional extension of credit to be secured by a previously recorded instrument which otherwise requires no further recording, the intangible recording tax is determined according to the terms of the new note. This regulation contemplates that in the case of future advances, the collecting official will collect any additional tax due based upon the increased indebtedness.

In this case, as set forth in the First Modification, the amount of indebtedness was increased from an existing principal balance of [REDACTED] to [REDACTED]. Based upon the increase in long-term principal, pursuant to 560-11-8-.06, the Clerk of Superior Court, [REDACTED] correctly imposed additional intangible recording tax of [REDACTED] upon recording of the instrument.

A copy of this determination is being provided to the Clerk of Superior Court, [REDACTED] so that the amount currently being held in a special escrow account may be distributed according to law.

Sincerely,



Bart L. Graham

BLG/RJL/mb

cc: Clerk of Superior Court, [REDACTED]