



Bart L. Graham  
Commissioner

State of Georgia  
Department of Revenue

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

April 19, 2010

[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 Security Deed with the Clerk of Superior Court, [REDACTED] on January 11, 2010. Parties are [REDACTED] (Borrower) and [REDACTED] (Lender)

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 plus copies of all associated documents were considered in the review. It is my determination that your Claim for Refund in the amount of [REDACTED] is upheld. The amount may be refunded by the Clerk of Superior Court, [REDACTED]

O.C.G.A. § 48-6-65(b)(1) provides, in pertinent part, that no tax shall be collected on that part of the face amount of a new instrument securing a long-term note secured by real estate that represents a refinancing by the original lender of unpaid principal on a previous instrument securing a long-term note secured by real estate if all intangible recording tax due on the previous instrument has been paid or the previous instrument was exempt from intangible recording tax.

Ga. Comp. R. & Regs. r. 560-11-8-.05 provides, in pertinent part, that intangible recording tax is not required to be paid on that part of the face amount of a new instrument securing a long-term note which represents a refinancing between the original lender and original borrower of unpaid principal of an existing instrument, still owned by the original lender, if the intangible recording tax was paid on the original instrument or the original holder of the instrument was exempt.

In the instant matter, the lender indicated on the security instrument representing a refinance is [REDACTED]. Given that the lender on the original security instrument, [REDACTED] was merged into [REDACTED] but did not survive the merger, [REDACTED]

[REDACTED]  
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[REDACTED] is considered to be the original lender for purposes of the refinance. The requirement stated in O.C.G.A. § 48-6-65 and Department of Revenue Rule 560-11-8-.05 has been met.

Further, given that all tax due on the existing principal balance was paid when the original security instrument was recorded, no further tax should have been collected on the amount of [REDACTED] when the security instrument representing a refinance was recorded on January 11, 2010.

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 refunded to the claimant according to law.

Sincerely,

*Frank M. O'Connell*  
Frank M. O'Connell

FOC/RJL/me

cc: Clerk of Superior Court, [REDACTED]