

State of Georgia

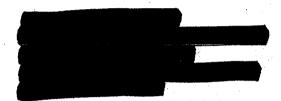
Douglas J. MacGinnitie Commissioner

Department of Revenue

Administrative Division — Office of Tax Policy 1800 Century Blvd., Suite 15311 Atlanta, Georgia 30345-3205 (404) 417-6649

December 11, 2012

Frank M. G'Connell Director



	the amount of Amendment to Georgia	Tax Protest and Claim for Refund per O.C.G.A. § 48-6-76(c) in Filed on August 9, 2012, pursuant to recording a Second Security Deed and Security Agreement with the Clerk of Parties are
	Superior Court, (Grantor) and	(Grantee)

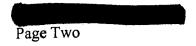
Dear

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 plus all associated documents were considered in the review. It is my determination that your Claim for Refund in the amount of the second se

O.C.G.A. § 48-6-60 <u>Definitions</u>, sets forth at (1) the definition of a "Collecting officer"; at (2) the definition of an "Instrument" or "security instrument"; at (3) the definition of a "Long-term note secured by real estate"; and at (4) the definition of a "Short-term note secured by real estate," respectively.

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-.12 <u>Instrument Securing Short-Term and Long-Term Notes</u>, 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."



The following "Opinion of the Attorney General" might also prove instructive:

Whether it is evidenced by one note or a series of notes, when any of the debt is repayable more than three years from the date of execution, it is all long-term and subject to the rates applicable thereto. 1960-61 Op. Att'y Gen. p. 519.

Based upon the documents provided, Grantor does not qualify for an exemption from payment of intangible recording tax as a "non-profit *public* corporation." (emphasis added) Accordingly, the Second Amendment recorded under Protest on August 9, 2012, which incorporated "the 2009 Note" in the amount of was subject to collection of intangible recording tax totaling. The Protest and Claim for Refund must necessarily be denied.

The Clerk of Superior Court, as a second is hereby authorized to remove the protested amount from the special escrow account into which it was deposited and distribute it according to statute.

Sincerely,

Frank M. O'Connell

FOC/RJL/me

cc: Clerk of Superior Court,