



Department of Revenue  
State of Georgia

410 Trinity-Washington Building  
Atlanta, Georgia 30334  
(404) 656-4015

T. Jerry Jackson  
Commissioner

May 17, 2001

[REDACTED]

RE: Protest of Intangible Recording Tax and Claim for Refund pursuant to O.C.G.A. 38-6-76; [REDACTED] Exemption for Amount of Note Refinanced pursuant to O.C.G.A. 48-6-65 (b) and Department of Revenue Rule 560-11-8-.05

Dear [REDACTED]:

In reply to your request pursuant to O.C.G.A. 48-6-76 for a refund of intangible recording tax paid under protest to the clerk of superior court, [REDACTED], it is my determination that your request for a refund is approved in the amount of [REDACTED]. In reaching my determination, the Protest of Georgia Intangible Recording Tax, Claim for Refund, the Security Deed executed on November 26, 1997 between [REDACTED] and [REDACTED] and the Security Deed executed on March 23, 2001 between [REDACTED] and [REDACTED]

O.C.G.A. 48-6-65 (b) 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 which represents a refinancing by the original lender of unpaid principal on a previous instrument securing a long-term note secured by real estate if:

- (1) All intangible recording tax due on the previous instrument has been paid or the previous instrument was exempt from intangible recording tax; and
- (2) The new instrument contains a statement of what part of its face amount represents a refinancing of unpaid principal on the previous instrument; or

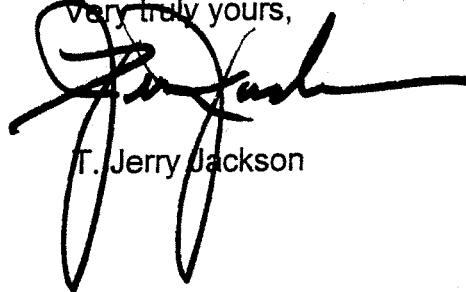
- (3) The holder of the new instrument submits an affidavit as to what part of the face amount of the new instrument represents a refinancing of unpaid principal on the previous instrument.

Department of Revenue Rule 560-11-8-.05 provides in pertinent part that intangible recording is not required to be paid on that part of the face amount of a new instrument securing a long-term note secured by real estate which represents a refinancing by the original lender and original borrower of unpaid principal of an existing instrument securing a long-term note secured by real estate still owned by the original lender, if the intangible recording was paid on the original instrument. The rule further provides that the new instrument must contain a statement, or in the alternative, an affidavit stating what part of the face amount of the note represents a refinancing of unpaid principal.

The requirement of original lender who owns the note at the time of the refinancing is met. The borrower, [REDACTED], is the original borrower. The intangible recording tax was paid in the correct amount when the previous Security Deed was recorded. The fact that the original borrower may have transferred a one-half interest in the real property to her husband has no material effect on the exemption from intangible recording tax of unpaid principal since [REDACTED] was the original borrower and was the borrower at the time of the refinancing.

Of the intangible recording tax paid in the amount of [REDACTED] at the time the Security Deed was recorded in [REDACTED] on April 16, 2001, only tax in the amount of [REDACTED] was due. The amount of [REDACTED] may be refunded by the clerk of superior court, [REDACTED].

very truly yours,



T. Jerry Jackson

TJJ/JWM.jt