



Department of Revenue

Suite 153000

1800 Century Century Blvd., NE

Atlanta, Georgia 30345-3205

Telephone 404- 417-2100

April 24, 2002

T. Jerry Jackson
Revenue Commissioner

[REDACTED]

RE: Protest of Intangible Recording Tax and Claim for Refund regarding [REDACTED]
[REDACTED] (Lender) and [REDACTED]
[REDACTED] (Borrowers) for taxes paid to the clerk of superior
court, [REDACTED] in the amount [REDACTED] when a Deed to Secure Debt
between the parties was recorded on November 1, 1999

Dear [REDACTED]

This responds to your Protest and Claim for Refund pursuant to O.C.G.A. 48-6-76 with respect to the application of the Georgia intangible recording tax required by O.C.G.A. 48-6-61. Based on the contents of your letter dated November 1, 1999 with accompanying documentation, the requirements of Georgia law and Department of Revenue Rules and regulations, it is my determination that intangible recording tax in the amount of [REDACTED] paid on November 1, 1999 was due when the Deed to Secure Debt between the parties was recorded, and may not be refunded.

O.C.G.A. 48-6-61 provides in pertinent part that every holder of a long-term note secured by real estate must present the security instrument for recording in the county in which the real estate conveyed is located and the collecting officer shall determine from the face of the security instrument, the date of execution of the security instrument, the maturity date of the note, and the principal amount of the note. The collecting officer shall collect the tax due on the security instrument. The maximum amount of intangible recording tax payable with respect to any single note shall be \$ 25,000.00.

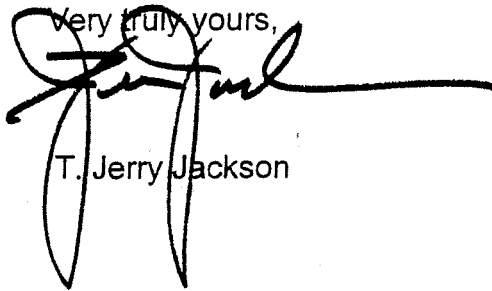
O.C.G.A. 48-6-60 provides in pertinent part that a "security instrument" means any written document presented for recording for the purpose of conveying or creating a lien or encumbrance on real estate for the purpose of securing a long-term note secured by real estate.

Department of Revenue Rule 560-11-8-.02 provides in pertinent part that an 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 in accordance with O.C.G.A. 48-6-61 and these regulations. This tax is assessed on the security instrument securing one or more long-term notes secured by real property.

Department of Revenue Rule 560-11-8-.03 defines a "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 purpose of securing a long-term note secured by real estate. It further defines a "long-term note secured by real estate as any note representing credits secured by real estate by means of mortgages, deeds to secure debt ----- when any part of the principal of the note falls due more than three years from the date of the note or from the date of execution of the note and conveying or creating a lien or encumbrance on real estate for such purpose.

The Deed to Secure Debt between the parties secures a long-term note secured by real estate pursuant to the law and Department regulations and was subject to intangible recording tax. The fact that the real property is not the primary security for the note does not alter the fact that the note is secured by real property and, therefore, subject to the intangible recording tax.

Very truly yours,



T. Jerry Jackson

TJJ/JWM/jt

Cc: Clerk of superior court, [REDACTED]