



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

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

June 22, 2006

[REDACTED]

Re: Protest and Claim for Refund of Intangible Recording Tax totaling [REDACTED] paid upon recording an Assumption, Consent and Loan Modification Agreement with the Clerk of Superior Court, [REDACTED] on April 28, 2006. Parties are [REDACTED] (Borrower) and [REDACTED] (Lender)

Dear [REDACTED]

I have carefully considered your Protest and Claim for Refund of intangible recording tax in the amount of [REDACTED] when you recorded a Modification ("Assumption, Consent and Loan Modification Agreement") between the parties with the Clerk of Superior Court, [REDACTED] on April 28, 2006. Your Protest, your Claim for Refund, your letters of May 19, 2006 and May 24, 2006 with supporting documentation, and your Protest and Claim for Refund with supporting documentation filed with the Clerk of Superior Court, [REDACTED] were all considered in the review.

It is my determination that intangible recording tax in the amount of [REDACTED] was not due when the Assumption, Consent and Loan Modification Agreement between the parties was recorded by the Clerk of Superior Court, [REDACTED] on April 28, 2006.

Rev. Reg. 560-11-8-.06 provides in pertinent part that in the case of a new note or 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 officer will collect any additional tax due based on the increased indebtedness.

[REDACTED]
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In the matter at issue, intangible recording tax was paid on the original principal amount of [REDACTED] when the original security instrument was recorded on June 1, 2004. Therefore, intangible recording tax is due and payable only on the amount of the additional advance of [REDACTED] as stipulated in the Modification Agreement that was recorded on April 28, 2006. Accordingly, the protested payment of additional intangible recording tax in the amount of [REDACTED] may be refunded by the Clerk of Superior Court, [REDACTED]

A copy of this determination is being provided to the Clerk of Superior Court, [REDACTED] as their authority to refund the amount of [REDACTED] currently being held in a special escrow account as provided by law.

Sincerely,


Bart L. Graham

BLG/RJL/mb

cc: Clerk of Superior Court, [REDACTED]