



## Department of Revenue

### Property Tax Division

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#### MEMORANDUM

TO: All Clerks of Superior Court and Tax Commissioners

FROM: Larry M. Griggers, Director *LMG*

SUBJECT: Collection of Intangible Recording Tax When Recording  
Modifications to Short-Term Security Deeds

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This memorandum is in response to numerous requests for determinations we have received on whether intangible recording tax should be collected when recording modifications or renewals of short-term security deeds, which extend the original maturity date.

It has come to our attention that there are inconsistent positions on this issue when the note secured is short-term and no tax was previously collected. The confusion appears to be about whether the note remains short-term or becomes long-term when the extension results in payments of principal and interest being extended beyond 36 months from the date of execution of the original deed.

Department of Revenue Rule 560-1 1-8-.03 (b) provides in pertinent part that a short-term note remains classified as short-term according to its own terms, as long as it remains outstanding, although the indulgence of the lender allows it to extend beyond a three-year period. Subparagraph (c) of that rule provides that a renewal note in payment of an existing short-term note is to be classified according to its own terms as to whether it is short-term or long-term.

Department of Revenue Rule 560-1 1-8-.04 provides that intangible recording tax is not required to be paid on any instrument that modifies by extension, transfer, assignment or renewal, or gives additional security for an existing note, when the

intangible recording tax has been paid on the original instrument or the original note or the holder of the instrument was exempt.

With this memo, we hope to establish consistency in the handling of modifications to short-term security instruments that extend the maturity date beyond 3 years. **To summarize our rule:** when a short-term deed is modified to extend the maturity date by a period of not more than 3 years, it does not transform the instrument into a long-term security deed subject to intangible recording tax. In other words, if the extension period does not exceed 36 months, intangible recording tax is not due. If the extension period exceeds 36 months, intangible recording tax should be collected when the modification is recorded.

John Miller handles intangible recording tax issues for the Department. Please call him at (404) 968-0708 with any questions you may have about this issue. He will be happy to assist you.

Cc: Danny Peterman  
John Miller

LMG/jwm