

# Intangible Recording Tax

## Recording the Security Instrument

Every holder (lender) of a long-term note secured by real estate must record the security instrument in the county in which the real estate is located within 90 days from the date of the instrument executed to secure the note.

Before recording the security instrument with the clerk of the superior court, the security instrument must be presented to the collecting officer of the county in which the real estate is located.

The collecting officer will collect the intangible recording tax due from the holder of the security instrument. The collecting officer will then attach a certificate to the security instrument indicating that the tax has been paid.

The tax for recording the note is at the rate of \$1.50 for each \$500.00 or fractional part of the face amount of the note. The maximum amount of recording tax on any single note is \$25,000. Failure to pay the tax will incur a 50 percent penalty of the tax amount and 1 percent interest per month from the time the tax was due.

The holder of the note can pass the amount of tax on to the borrower, but it cannot be considered a finance charge in connection with the loan transaction.

The Georgia intangible recording tax is not the same as the Georgia personal property tax. Inquiries concerning specific exemptions should be addressed to the local tax officials of the county in which the property securing the note is located.

## Who Collects the Intangible Recording Tax?

The collecting officer for Intangible recording tax is the Clerk of Superior Court although in some counties having a population of 50,000 or less the collecting officer may be the tax collector or the tax commissioner.

The following is a list of the counties where the tax collector or the tax commissioner collects the recording Intangible tax (last updated July 2015):

Appling	Decatur	Pulaski
Atkinson	Early	Talbot
Bacon	Evans	Taylor
Baker	Gilmer	Towns
Berrien	Greene	Turner
Bryan	Jeff Davis	Wilcox
Calhoun	Laurens	Worth
Clinch	Mitchell	
Coffee	Polk	

## A New Note or Modification of a Pre-existing Note

When the new note is taxable and has previously been recorded, there is no further need for recordation. The holder of the note may elect to execute a sworn

affidavit in the form required by the Revenue Commissioner which gives the information required by O.C.G.A. 48-6-66. The sworn affidavit is presented to the collecting officer of the county in which the real estate is located, and the tax due will be collected from the holder of the note.

#### Procedure for Recording Real Property Located in More Than One County

When any security instrument that is required to be recorded creates a lien upon real property located in more than one county, the tax shall be prorated among all applicable counties with the proportionate amount of the total tax due paid to the collecting officer of each county. The collecting officer in each county then attaches a certificate to the security Instrument to indicate that the tax has been paid.

#### Nonresident Holder of Security Instrument on Real Property Located in Georgia and Outside of Georgia

If the real property is located in and outside of this State, and the holder of the note is a nonresident, the portion of the note that is taxable in Georgia will be based upon the value of the property located in Georgia in proportion to the total value of the property in and outside the State.

#### Resident Holder of Security Instrument on Real Property Located Outside of Georgia

Every resident in Georgia--including domestic corporations and foreign corporations with their principal place of business in Georgia--is required to file at intervals specified by regulation a memorandum of the security Instrument securing a long-term note on real property

located outside of this State. The memorandum is filed on forms that are required by the Revenue Commissioner at the same time the tax is collected. The revenues collected are distributed to the state, counties, and municipalities as if the real property were located in the county of the domicile of the taxpayer; or if a corporation, the county of the principal place of business.

#### 560-11-8-.14 Exemptions.

Any mortgage, deed to secure debt, purchase money deed to secure debt, bond for title or any other form of security instrument is not subject to intangible recording tax where any of the following applies:

- (a) Where any of the following is a party: The United States, the State of Georgia, any agency, board, commission, department or political subdivision of either the United States or this state, any public authority, any non-profit public corporation, or any other publicly held entity sponsored by the government of the United States or this state.
- (b) Where any of the following is Grantee: a federal credit union, a state of Georgia chartered credit union, or a church.
- (c) Where the instrument is given as additional security, to correct a previously recorded instrument, or to substitute real estate; provided the body of the new instrument identifies the existing instrument and specifically states the purpose of the new instrument.
- (d) Where the instrument does not secure a note, (e.g.,

guaranty agreement; bail bond; performance agreement; bond issue; indemnity agreement; divorce decree; letter of credit).

(e) In the case of a transfer or assignment, where the original note or the holder of the original note was exempt.

(f) Where the instrument is recorded pursuant to a plan of reorganization confirmed under Chapter 11 of the U.S. Code and where the instrument is accompanied by documentation verifying confirmation of the plan of reorganization.

Authority O.C.G.A. secs. 18-5-41(a)(1)(A), 48-6-22, 48-6-60, 48-6-65, 48-6-65(a)(2), 48-6-65(b)(1).  
History. Original Rule entitled "Exemptions" adopted. F. Jun. 17, 1996; eff. Jul. 7, 1996.