SUMMARY

QUESTION: Are short-term notes and mortgages issued to the Agricultural Credit Associations exempt from Florida intangible taxes?

ANSWER - Based on Facts Below: Production Credit Associations and Federal Land Bank Associations merged as permitted by the Agricultural Credit Act of 1987 to become Agricultural Credit Associations. Notes and mortgages issued to borrowers by the Production Credit Associations prior to the merger including any future advances made to date are still subject to the Florida intangible tax.

At the present time, therefore, under U.S. Code s. 2077 of Title 12, Chapter 23, Subchapter II, Part A, any new notes and mortgages issued by the Agricultural Credit Associations are exempt from the Florida intangible taxes imposed under s. 199.032, F.S., and s. 199.133, F.S

*****See Revised TAA 05C2-004R dated August 19, 2005*****

June 7, 2005

Re: Technical Assistance Advisement No. 05C2-004
Intangible Tax: Short: Term Notes and Mortgages to Agricultural Credit Associations
Sections 199.032, 199.133, F.S.
XXX (hereinafter, farm credit #1)
XXX (hereinafter, farm credit #2)
XXX (hereinafter, farm credit #3)
XXX (hereinafter, farm credit #4)
XXX (hereinafter, farm credit #5)

Dear:

This is in response to your request for a technical assistance advisement asking for an opinion on whether the short-term notes and notes and mortgages made by farmers and given to agricultural credit associations are subject to Florida's annual or nonrecurring intangible tax.

FACTS AS PRESENTED BY PETITIONER

According to your letter, the above farm credit entities are agricultural credit associations, federally chartered instrumentalities of the United States Government, which lend money directly to farmers in Florida. The loans are short-term loans evidenced by, for example, promissory notes and other documents referred to herein as short-term promissory notes. Some of the loans are long-term loans evidenced by promissory notes and real estate mortgages.

The short-term promissory notes and long-term promissory notes and mortgages are not guaranteed or insured by the federal government or by the agricultural credit associations.

REQUESTED RULING

You request the Department's determination that the farm credit associations named above are exempt parties by reason of their being federally chartered instrumentalities of the United States Government, and therefore not subject to nonrecurring intangible tax on the notes and mortgages given to them by farmers needing loans. (These loans are not obtained from banks or other entities where the notes and mortgages are merely guaranteed by the farm credit associations.)

LAW AND DISCUSSION

As a result of the amendments to the Farm Credit Act by the Agricultural Credit Act of 1987, the Production Credit Associations and Federal Land Bank Associations merged to become the Agricultural Credit Associations. The Agricultural Credit Associations were given the lending authority formerly held by the Farm Credit Banks. As a result of this merger, Florida notes and mortgages existing in these two entities were transferred to the new Agricultural Credit Associations.

The Federal Land Bank Associations were chartered instrumentalities of the United States Government under the Farm Credit Act of 1971 s. 2.10; 12 U.S.C. s. 2091. The notes, bonds, debentures, and other obligations and any future advances under these instruments issued by the association were exempt from all taxes imposed by a state, municipality, or local taxing authority and remained so after the merger.

However, prior to the merger, the mortgages issued to borrowers by the Production Credit Associations were not exempt from state and local taxing authorities. After the merger discussed above, the Production Credit Associations' mortgages previously issued, remained subject to Florida intangible tax. Therefore, any future advances made under these notes and mortgages existing when the merger took place are still subject to the intangible tax.

At the present time, U.S. Code s. 2077 of Title 12, Chapter 23, Subchapter II, Part A, provides that Production Credit Associations:

are instrumentalities of the United States and as such, any and all notes, debentures and other obligations issued by these associations are exempt as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority, except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder.

Any short term promissory notes and long-term notes and mortgages currently issued by the Agricultural Credit Associations are now exempt under the U. S. Code.

DETERMINATION

Currently, new notes and mortgages issued by the Agricultural Credit Associations are exempt from the Florida intangible taxes imposed under s. 199.032, F.S. and s. 199.133, F.S.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the taxpayer. Your response should be received by the Department within 15 days of this letter.

Sincerely,

M.E. Clemens, C.P.A.
Senior Tax Specialist
Technical Assistance and Dispute Resolution

MEC/mh