

SUMMARY

QUESTION: Do the documents conveying real property from the Taxpayer to the Board meet the exemption requirements pursuant to section 201.02(6), F.S.?

ANSWER: Taxpayer is a nonprofit organization exempt from federal income tax under s. 501(c)(3), I.R.C., whose primary purpose is deemed to be the preservation of natural resources. Therefore, Taxpayer meets the requirements of section 201.02(6), F.S., and qualifies for the exemption from documentary stamp tax on the documents transferring real property to the Board.

October 16, 2009

Re: Technical Assistance Advisement 09B4-007

Documentary Stamp Tax – Exemption for Sale of Real Property to Trustees of the Internal Improvement Trust Fund

Sections 201.02(1) and (6), Florida Statutes (F.S.)
Rule 12B-4.014(14), Florida Administrative Code (F.A.C.)

XXX (“Taxpayer”)

XXX (“University”)

XXX (“Board”)

Agreements for Sale and Purchase (“Transaction”)

Dear :

Your letter dated XXX, requests a Technical Assistance Advisement concerning whether documentary stamp tax is due on a transfer of real property from the Taxpayer to the Board. This response to your request constitutes a Technical Assistance Advisement under Chapter 12-11, F.A.C., and is issued to you under the authority of section 213.22, F.S.

FACTS AS PRESENTED

Taxpayer has entered into a transaction consisting of two agreements for the sale and purchase of two parcels of Florida real property by the Taxpayer to the Board, who will take fee simple title to all of the property. The consideration paid by the Board under the transaction is XXX. Absent an exemption or exclusion from tax, XXX in documentary stamp tax would normally be due.

Taxpayer is a nonprofit organization organized for charitable and education purposes that is exempt from federal income tax under s. 501(c)(3), I.R.C., and has as its purpose the preservation of natural resources. Taxpayer is classified as a school for federal income tax purposes. Through a collaboration with the University entered into in XXX, Taxpayer offers doctorate and post doctorate fellowships for the purposes of higher education and research, XXX, XXX and XXX, XXX, XXX, or related disciplines and research facilities supportive of those specific uses. Taxpayer's activities are conducted at the XXX (Florida city) campus.

QUESTION

Are the documents that convey the real property from the Taxpayer to the Board exempt from documentary stamp tax pursuant to section 201.02(6), F.S., and Rule 12B-4.014(14), F.A.C.?

PROVISION OF LAW AND DISCUSSION

Documentary stamp tax is imposed under section 201.02(1), F.S., on deeds and other instruments transferring an interest in real property based on the consideration given. Consideration includes, but is not limited to, monies paid or to be paid. The tax is computed at the rate of \$.70 per \$100 of the consideration or fraction thereof.

An exemption from the documentary stamp tax is granted for documents that transfer Florida real property from certain nonprofit organizations to the Board. For purposes of this exemption, the nonprofit organization must be an organization exempt from federal income tax under s. 501(c)(3), I.R.C., whose purpose is the preservation of natural resources. See section 201.02(6), F.S., and Rule 12B-4.014(14), F.A.C.

The Taxpayer is an organization exempt from federal income tax under s. 501(c)(3), I.R.C. In regards to the preservation of natural resources requirement, the Taxpayer described some of its charitable purposes. These include the following:

CONCLUSION

Taxpayer has provided the Department with numerous materials, including brochures, bulletins, and published articles, which describe in depth the Taxpayer's activities and operations in the field of the preservation of natural resources. Upon review of the material provided and discussions with the Taxpayer's representatives, it is deemed the Taxpayer's purpose consists of the preservation of natural resources. Since Taxpayer also is a nonprofit organization exempt from federal income tax under s. 501(c)(3), I.R.C., and is transferring property to the Board, Taxpayer qualifies for the exemption from documentary stamp tax pursuant to section 201.02(6), F.S.

This response constitutes a Technical Assistance Advisement under section 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 section 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 section 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 the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850) 922-4844.

Sincerely,

Joy B. Eldred, CPA
Tax Law Specialist
Technical Assistance and Dispute Resolution

JBE/

Record ID: 65884