



5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

QUESTION: Are certain installment loan agreements subject to documentary stamp tax?

ANSWER: No.

April 12, 2024

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Technical Assistance Advisement – TAA #: 24B4-001

[REDACTED]. (the “Taxpayer”)

BP #: [REDACTED]

Documentary Stamp Tax – Written Obligations to Pay Money
Sections 201.08(1)(a) and 201.08(6), Florida Statutes (F.S.)
Rule 12B-4.054(4), Florida Administrative Code (F.A.C.)

Dear [REDACTED]:

This is in response to your letter dated [REDACTED] requesting the Department of Revenue’s issuance of a Technical Assistance Advisement (TAA) pursuant to Section 213.22, F.S., and Rule Chapter 12-11, F.A.C, regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

REQUESTED ADVISEMENT

Whether certain installment loan agreements are subject to Florida’s documentary stamp tax.

FACTS

The Taxpayer facilitates financing between businesses and consumers in Florida. For example, a [REDACTED] contractor may suggest that its customer (the “Borrower”) apply for a loan with the Taxpayer to finance the repair of the customer’s [REDACTED].

Once approved, the Borrower will execute an Installment Loan Agreement (the "Loan Agreement"), and the Taxpayer will pay the [REDACTED] contractor an amount to start the work, and once the work is completed, the Taxpayer will pay the [REDACTED] contractor any remaining balance due up to the total amount financed.

Section 1 of the Loan Agreement states that the Borrower is approved for a loan "up to the Amount Financed." Section 2 of the Loan Agreement provides that the Borrower may "make purchases...up to the 'Amount Financed'...".

Section 3 of the Loan Agreement contains the Borrower's, "Promise to pay...you agree to pay us...so much of the Amount Financed."

The Borrower may make draws on the loan for a total of five months. After five months, the Taxpayer will issue to the Borrower a "conversion" Installment Loan Agreement (the "Conversion Loan") that contains the total amount that has been financed by the Borrower along with the Borrower's promise to pay that amount. However, the Conversion Loan is not signed by the borrower.

No mortgages, security agreements, or other documents will be filed or recorded in Florida.

LAW AND DISCUSSION

Section 201.08(1)(a), F.S., imposes documentary stamp tax on all promissory notes and other written obligations to pay money made, executed, delivered, sold, transferred, or assigned in Florida, and for each renewal of the same. The tax is \$0.35 on each \$100.00 or fraction thereof of the indebtedness or obligation evidenced thereby.

Section 201.08(6), F.S., provides that the taxability of a document is determined solely from the face of the document and any separate document expressly incorporated into the document.

To be taxable under s. 201.08(1)(a), F.S., a written obligation to pay money must have the following three elements within the four corners of the document or must expressly incorporate other documents such that, when the documents are read together, they contain these elements:

1. A written promise to pay;
2. A sum certain in money; and
3. The signature of the borrower.

Rule 12B-4.054(4), Florida Administrative Code (F.A.C.), provides that a written obligation to pay money that is not fixed and absolute at the time of execution is not taxable.

The Loan Agreement does not contain a loan amount that is fixed and absolute when the Borrower executes it. Therefore, the Loan Agreement is not subject to documentary stamp tax.

The Borrower does not sign the Conversion Loan, so it is not taxable.

CONCLUSION

Neither the Loan Agreement nor the Conversion Loan are subject to documentary stamp tax.

This response constitutes a TAA 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 TAA, 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 ten (10) days of the date of this letter.

If you have any further questions regarding this matter and wish to discuss them, you may contact me directly at (850) 717-6488.

Sincerely,

Roger L. Beasley

Roger L. Beasley
Tax Law Specialist
Technical Assistance and Dispute Resolution

Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Record ID: 7001146456

TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's address bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7001146456

Respondent code: 44

Tax type: Documentary Stamp Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.