

1981 S.C. Op. Atty. Gen. 114 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-91, 1981 WL 96616

Office of the Attorney General

State of South Carolina

Opinion No. 81-91

December 3, 1981

***1 SUBJECT: Documentary Stamps—Bankruptcy**

Documentary Stamps are required on deeds executed by a trustee in bankruptcy with the exception of those transfers made under a plan confirmed pursuant to [11 U.S.C.A. § 1129](#).

TO: Mr. J. W. Lawson

Director

License Tax Division

South Carolina Tax Commission

QUESTION:

Attorney General's Opinion No. 4156, dated October 10, 1975, ruled that documentary stamps are required on deeds executed by a trustee in bankruptcy. Have there been any changes in the federal law that would exempt certain transfers by a trustee in bankruptcy?

APPLICABLE LAW:

[11 U.S.C.A. § 1146\(c\)](#).

DISCUSSION:

On October 10, 1975 an Attorney General's Opinion was issued basically stating that documentary stamps are required on deeds executed by a trustee in bankruptcy. The general rule articulated in that Opinion has since been altered by [11 U.S.C.A. § 1146\(c\)](#). That Section, enacted pursuant to the 1978 Bankruptcy Reform Act, states:

‘The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under [section 1129](#) of this title, may not be taxed under any State or local law imposing a stamp tax or similar tax.’

In light of the above, deeds executed pursuant to a Chapter 11 reorganization plan and confirmed in accordance with [11 U.S.C.A. § 1129](#) are exempt from documentary stamp taxation. All other deeds executed by bankruptcy trustees remain subject to the said tax.

CONCLUSION:

Documentary Stamps are required on deeds executed by a trustee in bankruptcy with the exception of those transfers made under a plan confirmed pursuant to [11 U.S.C.A. § 1129](#).

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