

1975 WL 29673 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 7, 1975

\*1 Mr. J. Boone Aiken  
Chairman of the Board  
Guaranty Bank and Trust Company  
Florence, South Carolina 29501

Dear Mr. Aiken:

Thank you very much for your letter of March 21 concerning the documentary stamp tax.

I am, frankly, not versed in these matters but have three Assistants assigned to the Tax Commission who handle all of this work. I have requested the Senior Assistant there, Mr. Joe Allen, to write you on the Matter and to discuss the problem with me as he sees it before forwarding his reply to you. That reply is enclosed herewith.

Apparently, as noted in the quotation from the legal authority cited at the foot of page 1 of Joe Allen's letter of March 15, if an instrument is executed in another place but is not binding until its acceptance in this State, then the instrument is executed where it is received and accepted by the payee. This is apparently what happened in the instance referred to in your letter and, for that reason, if this is correct, the documentary tax is applicable here. It is difficult to conceive of a note being accepted from the time it is placed in the mail in another State and this appears to be the circumstance in connection with the transaction to which you refer. I presume that when you received the note, you then notified the Federal Reserve in Charlotte to credit the borrower's account and to charge the same to your account. This is the ordinary manner in which matters of this nature are completed, as indicated in the citation of authority set forth at the top of page 2 of Joe Allen's letter of March 15.

If there is any uncertainty about the facts of the matter, please write me and I will have Joe Allen take another look at it, based upon the entire transaction.

I am in wholehearted agreement with you that there should be no competitive disadvantage in the levy and collection of documentary taxes and, for this reason, Joe Allen has notified the Director of the License Tax Division by copy of his letter that there may be Banks in this State who are not collecting the proper tax on this type of instrument.

It was good to hear from you and I hope that you are progressing nicely. From all reports, I hear that you are, and I am most delighted.

Please let me know if there is any further consideration you wish of this matter, and I will be most happy to undertake this.

With best wishes,  
Cordially,

Daniel R. McLeod  
Attorney General

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