Intangible Tax Refund Process

Background

* Statute of Limitations is 36 months from the date of payment of the non-recurring intangible tax.
* If loan is RUS/FFB based then there is no intangible tax due per 12B-4.054 (24) Exempt Transactions of the Florida Administrative Code.
* If loan is from CoBank, there is no intangible tax due, since CoBank is considered an agency or political subdivision of the government. Public Law 92-181-Dec 10,1971 – Farm Credit Act
* If loan is from CFC, then intangible tax is due based on the amount of the loan that is secured by real property. This results in a very small amount of intangible tax due. The formula is listed below.

Refund Process

1. Complete Form DR26, Application for Refund that is found on the Department of Revenue (DOR) website. Select the correct boxes that relate to the non-recurring intangible tax refund. The form is very simple to complete.
2. Provide detail explanation and ***submit each loan as a separate refund request***. DOR will then assign a case number to each refund request.
   1. If loan was provided by a government agency, it is exempt from the intangible tax.
      1. Reference 12B-4.054(24) of Florida Administrative Code
   2. If loan is provided by CFC, then intangible tax is due on the portion of the loan secured by real property.
      1. Reference Florida Statute Section 199.133 - Levy of Non-Recurring Tax.
      2. The calculation we used was based on the year end Plant, Property and Equipment (PP&E) schedule most companies prepare as part of their audit schedules.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Real Property Value | | X | Loan Amount | | X | | Intangible Tax Rate | |
| Total Property Value | |
|  |  |  | |  | |  | |
|  |

* + 1. For CFC loans, provide copy of PP&E schedule with the above calculation showing how much tax should have been paid and how much was actually paid. It helps to include the lender name and the note designation.

1. Provide copies of cancelled checks showing the payment of the tax and proof that the note was recorded into the public records.
2. We provided copies of our original mortgage and supplemental mortgages in addition to copies of the Promissory Notes for the loans in question.
3. If you want your attorney or CPA to help with the filing or to talk to DOR on your behalf, then complete Form DR-835, which is a DOR Power of Attorney form.

Once the request has been submitted DOR has 90 days to process the refund request.

Law References

* Florida Statute Section 199.133 – Levy of nonrecurring tax
  + Paragraph 2 explains the calculation of apportioning between real and personal property.
* Florida Administrative Code 12B-4.054 Exempt Transactions
  + Paragraph 24 addresses there is no tax required on obligations executed by the United States or its agencies.
* Public Law 92-181-Dec 10, 1971 – Farm Credit Act of 1971
  + Establishes RUS/FFB and CoBank as a lending agency of the United States government (see Page 602 of this law)
* Public Law 93-224 93rd Congress, H.R. 5574 December 29, 1973 87 STAT. 937
  + Establishes the Federal Financing Bank (FFB) as a government lender.