

SYLLABUS: In the absence of a statement in the mortgages showing the amount of consideration, first and second mortgages given on a piece of property located in South Carolina as partial security for a large out-of-state loan should each bear documentary stamp taxes based on the full value of the South Carolina property.

March 31, 1975

License Tax Division
South Carolina Tax Commission
P. O. Box 125
Columbia, South Carolina 29214

Gentlemen:

This is in reply to your request for an opinion of this office on the proper treatment of the following transaction for documentary tax purposes. The facts on which this opinion is based are as follows:

Two separate and distinct mortgages (hereinafter referred to as the first and second mortgages) are to be given by a South Carolina based corporation covering the corporation's real property within this State. The South Carolina corporation is a subsidiary of a foreign corporation with principal offices located in New Jersey. The mortgages are given as partial security for two loans which are made to the foreign parent. The first mortgage is given to the N. Bank and the M. Bank as partial security for term loans of \$3,250,000 and \$1,000,000 respectively from these institutions. The second mortgage is given to N. Bank as partial security for an accounts receivable loan which may not exceed \$3,250,000 and at present is in the amount of \$1,633,000. The following caption appears on the face of the first mortgage: "THE WITHIN MORTGAGE is one of a series of mortgages executed by Mortgagor or (parent corporation) to secure the aforementioned term loan, such other properties being located in Trenton, New Jersey, Bordentown Township, New Jersey, and Plainville, Connecticut".

The second mortgage recites the same caption except that the words "term loan" are replaced by the words "accounts receivable loan". An affidavit accompanying the mortgage states that the value of the South Carolina property on which the two mortgages are given is \$665,433.