



STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA, S. C. 29211

P. O. Box 125  
January 3, 1968

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E. P. Riley, Esquire  
Greenville County Attorney  
Post Office Box 10355  
Greenville, South Carolina

Dear Mr. Riley:

Reference is made to your letter of January 2, 1968, concerning the documentary tax imposed by Federal statute, 26 U. S. C. A. 4361, and the County documentary tax imposed by Act No. 380, Acts of 1967, 55 Statutes at Large, 551.

The register of mesn conveyances called me yesterday and inquired as to whether a deed executed prior to January 1, 1968, was taxable under the Federal statute. I contacted the Internal Revenue Service in Columbia and talked with Mr. Nations, who advised that since the deed was executed prior to January 1, 1968, the same was subject to taxation. Mr. Nations was requested to confirm this in writing to Mrs. Farnsworth and I conveyed the information to her by telephone.

The tax is imposed upon:

"\* \* \* each deed, instrument or writing by which any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or purchasers \* \* \*," 26 U. S. C. A. 4361.

The tax, therefore, is upon the instrument and not upon the recordation, and because the deed was executed prior to January 1, 1968, the same, in the opinion of this office, would be subject to the Federal tax.