

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-87-1(R)
Mortgage Tax
July 1, 1987

SPECIAL ADDITIONAL MORTGAGE RECORDING TAX LEGISLATION

Chapter 13 of the Laws of 1987, enacted March 31, 1987, provided funds for the Metropolitan Transportation Authority (MTA).

Chapter 59 of the Laws of 1987, enacted April 22, 1987, provided funds for the Niagara Frontier Transportation Authority (NFTA).

A source of these funds for the MTA is a portion of the special additional mortgage recording taxes collected in the counties comprising the Metropolitan Commuter Transportation District which are the following:

- | | | | |
|------------|------------|------------|---------------|
| - Bronx | - Nassau | - Putnam | - Rockland |
| - Dutchess | - New York | - Queens | - Suffolk |
| - Kings | - Orange | - Richmond | - Westchester |

A source of these funds for the NFTA is a portion of the special additional mortgage recording taxes collected in Erie County only.

The portion of the special additional mortgage recording taxes which will be distributed to the MTA and the NFTA is the amount which is paid on mortgages of any real property which is principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities.

As a result of Chapters 13 and 59, a new Part 405 was added to the Mortgage Tax Regulations. This regulation, adopted May 1, 1987, provides guidance to recording officers regarding the recording of mortgages and contains provisions to ensure the proper allocation and distribution of the tax monies to the MTA and NFTA.

Accordingly, Part 405 provides, in pertinent part, that on and after August 1, 1987:

- (a) Every mortgage offered for recording in the counties which comprise the Metropolitan Commuter Transportation District and in Erie County must state whether or not it covers real property improved or to be improved with a structure containing six residential units or less, each dwelling unit having its own separate cooking facilities.

- (b) The statement required in (a) above will not be required to be incorporated in the mortgage and subscribed to, but can be made any where on the mortgage or on an attachment thereto, by any person having knowledge of the nature of the improvements. The statement must be signed by the person making such statement.
- (c) A statement in the mortgage that the real property is improved or will be improved by a one or two family residence or dwelling sufficient to claim the \$10,000 exclusion from the additional mortgage recording tax will be sufficient to satisfy the requirement of (a) above.
- (d) No mortgage will be recorded unless it satisfies the requirements of (a) or (c) above.

To assist the county recording officers, it is requested that all statements or attachments required by these regulations be conspicuously made or readily available.

Please note that Chapters 13 and 59 also made certain amendments to Articles 9, 9-A, 22, 32 and 33 of the Tax Law regarding the credit for the special additional mortgage recording tax paid in the counties comprising the Metropolitan Commuter Transportation District and in Erie County.

See Technical Services Bureau memoranda TSB-M-87(7)C and TSB-M-87(10)C which explains the amendments for both Corporation Tax and Personal Income Tax.