

Special Additional Mortgage Recording Tax Credit
Disallowed on Certain Real Property

Chapter 13 of the Laws of 1987 amended applicable provisions of Articles 9, 9-A, 22, 32 and 33 to provide that the special additional mortgage recording tax credit will not be allowed on certain mortgages (as defined below) where the real property on which the credit is being claimed is located in one or more of the counties comprising the Metropolitan Commuter Transportation District (MCTD) and where the mortgage is recorded on or after May 1, 1987.

The counties comprising the Metropolitan Commuter Transportation District (MCTD) are the counties of Bronx, Queens, Kings, New York, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

The types of mortgages referred to by Chapter 13 are mortgages of real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling having its own cooking facilities.

A prerequisite to allowance of the special additional mortgage recording tax credit is the add back of any such tax paid in computing entire net income for corporation franchise tax purposes and in computing New York adjusted gross income for personal income tax purposes. These modifications are now not necessary where the credit is disallowed pursuant to chapter 13.

The personal income tax law has been amended to make it clear that an addition to New York income must be made where the special additional mortgage recording tax credit is passed from a New York State electing "S" corporation to its shareholders, or where an individual who paid the special additional mortgage recording tax received a credit for this tax. The addition modification is to be made in the amount of the exclusion or deduction for the special additional mortgage recording tax that is included in federal adjusted gross income.