

CREDIT LINE MORTGAGE

On December 20, 1985, Chapters 924 and 925 of the Laws of 1985 added Section 253-b to the Tax Law.

On May 14, 1986, Part 404 of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York was adopted as a permanent measure.

The new laws and regulations provide that in case of a credit line mortgage, if the mortgage recording taxes are paid on the maximum principal amount as expressed in such mortgage, no further tax is payable on advances or readvances by the lender pursuant to such credit line mortgage to the original obligor or obligors (borrower(s)) named therein. Additional taxes are due, however, if such maximum principal amount is increased. This benefit is only available in the case of real property principally improved or to be improved by a one to six family, owner-occupied residence or dwelling.

For this purpose, a "credit line mortgage" is defined as any mortgage or deed of trust (other than a mortgage or deed of trust made pursuant to a building loan contract as defined in section 2(13) of the Lien Law) which states that it secures indebtedness under a note, credit or other financing agreement that reflects the fact that the parties reasonably contemplate entering into a series of advances, or advances, payments and readvances, and that limits the aggregate amount outstanding at any time to a maximum principal amount specified therein.

If a credit line mortgage remains outstanding after the sale or transfer of the real property securing the credit line mortgage to anyone not related to the original obligor/obligors by blood, marriage or adoption, mortgage recording taxes are imposed on the maximum principal debt or obligation which is or under any contingency may be secured at the date when the instrument of sale or transfer is recorded.

In order to properly administer these new Tax Law provisions and to allow the Recording Officers to satisfy their responsibilities, the following procedures will apply:

- (1) A Credit Line Mortgage Certificate must be completed and filed at the time of recording any deed evidencing a sale or transfer of real property whether or not a mortgage recording tax is due.

Note: If the transfer of real property is a transfer of other than a fee simple interest, the Credit Line Mortgage Certificate is not required to be completed.

This certificate is being made a part of the Gains Tax Affidavits, Form TP-584, Affidavit of Individuals, and Form TP-584-C, Affidavit of Corporation, Estate, Partnership and Trust.

Accordingly, whenever Form TP-584 or TP-584-C accompanies a deed offered for record, the reverse side of such form entitled "Credit Line Mortgage Certificate" must be completed.

Whenever Form TP-582, Tentative Assessment and Return or Form TP-585, Statement of No Tax Due, accompanies a deed offered for record, the Gains Tax Affidavit will also be required to be filed. However, only the Credit Line Mortgage Certificate on the reverse side must be completed.

In those instances where Form TP-584-U, Affidavit of Public Utility, or Form TP-584-G, Affidavit of Governmental Entity, accompanies a deed offered for record, a Credit Line Mortgage Certificate will not be required.

- (2) If exemption from the mortgage tax is being claimed, box number 1, 2, 3 or 4 on the Credit Line Mortgage Certificate must be checked.

- (3) If a mortgage tax is due, box number 5 on the Credit Line Mortgage Certificate must be checked and completed.

The recording officer must assign the deed transferring such property a mortgage tax serial number and validate receipt of payment of the mortgage tax on the deed.

Note: Only those deeds on which a mortgage tax is paid require a mortgage tax serial number.

- (4) The Credit Line Mortgage Certificate may be signed by the Grantor, the Grantee, or a representative of either.

The revised Gains Tax Affidavits are being printed and will be available soon.

The effective date of the above filing procedures will be August 1, 1986.