

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

TSB-M-95 (4) R
Mortgage Recording Taxes
September 8, 1995

Credit Line Mortgage

The Tax Law, Article 11, section 253-b and mortgage tax regulations, 20 NYCRR Part 647, provide that in the case of a credit line mortgage, the mortgage recording taxes are paid on the maximum principal amount as expressed in the mortgage. Further, no tax is payable on advances or readvances made by the lender pursuant to the credit line mortgage to the original obligor or obligors (borrower(s)) named therein, provided the mortgaged premises consist of real property principally improved or to be improved by a one- to six-family, owner-occupied residence or dwelling. Additional taxes are due, however, if the maximum principal amount is increased.

For this purpose, a *credit line mortgage* is a mortgage or deed of trust which 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. The aggregate amount outstanding at any time must be limited to a maximum principal amount specified in the mortgage or deed of trust. A credit line mortgage does not include a mortgage or deed of trust made pursuant to a building loan contract as defined in section 2.13 of the Lien Law or a reverse mortgage created pursuant to sections 280 and 280-a of the Real Property Law. See TSB-M-93(4)-R for more information on reverse mortgages.

If a credit line mortgage remains outstanding after the sale or transfer of the real property that secures the credit line mortgage, 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. However, such taxes would not be imposed if the real property that secures the credit line mortgage is transferred to anyone related to the original obligor/obligors by blood, marriage or adoption.

In order to properly administer these Tax Law provisions and to allow recording officers to perform their statutory duties, 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.

This certificate is part of Form TP-584, *Combined Real Property Transfer Gains Tax Affidavit, Real Estate Transfer Tax Return, Credit Line Mortgage Certificate*.

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.

- (2) If an exemption from the mortgage recording taxes is being claimed, box number 1, 2, 3 or 4 on the *Credit Line Mortgage Certificate* must be checked.
- (3) If mortgage recording taxes are due, box number 5 on the *Credit Line Mortgage Certificate* must be checked and completed.

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

Note: Only those deeds for which mortgage recording taxes are paid require a mortgage tax serial number.