



# Instructions for Form IT-256

## Claim for Special Additional Mortgage Recording Tax Credit

### Tax Law – Article 22, Section 606(f)

### General information

For a tax year beginning on or after January 1, 2004, if you paid the special additional mortgage recording tax to record a mortgage on or after January 1, 2004, on real property located in New York State, you may qualify for a credit for the amount of special additional mortgage recording tax you paid. Partners in a partnership (including members of an LLC that is treated as a partnership for federal income tax purposes), estates and trusts, and beneficiaries of estates and trusts may also qualify for this credit if the partnership, estate or trust in its tax year beginning on or after January 1, 2004, paid the tax to record a mortgage on or after January 1, 2004. This new credit does not apply to shareholders of New York S corporations. A New York S corporation will continue to claim a credit for this tax directly on its New York State S corporation return using Form CT-43, *Claim for Special Additional Mortgage Recording Tax Credit*.

This credit may be claimed by the lender or borrower, as the case may be, that paid the special additional mortgage recording tax. Except for loans made by a federal credit union and some loans made by a federal savings bank or by an exempt organization, in the case of a residential mortgage (defined below), the special additional mortgage recording tax is paid by the lender. In most other cases, the special additional mortgage recording tax is paid by the borrower. You should contact your lending institution or tax advisor to determine the amount, if any, of special additional mortgage recording tax you paid.

A tax credit is not allowed for the special additional mortgage recording tax paid on residential mortgages (defined below) recorded on or after January 1, 2004, if the real property is located in Erie county or any of the counties within the Metropolitan Commuter Transportation District (MCTD). The MCTD includes the counties of New York, Bronx, Queens, Kings, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

A *residential mortgage*, for purposes of this credit, means a mortgage of real property principally improved by one or more structures containing a total of not more than six **residential** dwelling units, each with its own separate cooking facilities.

### Who is eligible

- individuals (including sole proprietors)
- estates or trusts
- partners in a partnership (including members of an LLC treated as a partnership for federal income tax purposes)
- beneficiaries of an estate or trust.

### Who must file

File Form IT-256 if you are an individual (including a sole proprietor), a partnership, or an estate or trust and you qualify for the credit. In addition, if you are a partner in a partnership (including members of an LLC treated as a partnership for federal income tax purposes) or a beneficiary of an estate or

trust, file Form IT-256 to claim your share of the credit from your entity.

### Amount of credit

If the amount of the special additional mortgage recording tax credit exceeds your tax for the tax year, any amount of credit exceeding the tax may be carried over to the following year or years, or you can elect to treat the unused amount of credit as an overpayment of tax to be credited or refunded. However, you cannot receive a refund of any credit carried over from a prior year.

### Line instructions

**Individuals (including sole proprietors) and partnerships**  
Complete Part 1, Part 5, and if applicable, Part 2 and Part 3.

**Fiduciaries** — Complete Part 1, Part 4, Part 5, and if applicable, Part 2 and Part 3. An estate or trust that divides the credit among itself and its beneficiaries must attach Form IT-256 to Form IT-205, showing each beneficiary's share of credit.

Partners in a partnership and beneficiaries of an estate or trust  
Complete Part 2, Part 3, Part 5, and if applicable, Part 4.

### Part 1

Enter the information and amount of special additional mortgage recording tax paid on each mortgage recorded on or after January 1, 2004 that is eligible for this credit. If you are the lender, enter the amount of special additional mortgage recording tax you paid to record a residential mortgage.

If you are claiming a credit for the purchase of more than five properties, complete as many Forms IT-256 as necessary. On the first Form IT-256, complete Parts 1 through 5 (as applicable). Include on line 1 of the first Form IT-256 the total of column D from all additional Forms IT-256. Attach the additional Form(s) IT-256 to the back of the first Form IT-256 that has the entry on line 1. Enter on line 2 the total credit computed.

### Part 2 — Partnership and estate and trust information

Enter the appropriate information for each partnership, or estate or trust for which you receive a share of the special additional mortgage recording tax credit.

### Part 3 — Partner's or beneficiary's share of credit

Enter your share of the total credit received from a partnership, or an estate or trust. If you belong to more than one partnership, or estate or trust, enter the total of all your shares on the appropriate line.

### Partner

**Line 3** — Enter your share of the partnership's special additional mortgage recording tax credit. This information should be provided to you by the partnership. If you are claiming a credit from more than one partnership, combine all the amounts on line 3.

## Beneficiary

**Line 4** — Enter your share of the estate's or trust's special additional mortgage recording tax credit. This information should be provided to you by your fiduciary. If you are claiming a credit from more than one estate or trust, combine all the amounts on line 4.

## Part 4 — Beneficiary's and fiduciary's share of credit

An estate or trust must complete Part 4. If an estate or trust allocates or assigns the credit to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust.

## Part 5 — Computation of special additional mortgage recording tax credit available for the current tax year

**Line 10** — Enter the amount of net credit available for carryover to 2004. The net credit available for carryover is that portion of your prior year credit from 2003 Form IT-201-ATT, line 56; 2003 Form IT-203-B, line 42; or 2003 Form IT-205, line 10, that was not applied to your 2003 tax.

**Line 11** — Add lines 9 and line 10.

**Partnership** — Transfer the line 11 amount to Form IT-204, line 24.

**All others** — You may elect to treat the amount on line 9 as a refundable credit with any amount of credit that exceeds your tax being refunded to you or as a carryover credit with any amount of credit that exceeds your tax being carried over to the following year or years.

**Note:** Special additional mortgage recording tax credit carryover amounts prior to 2004 (line 10) are not eligible to be refunded and must be treated as a carryover credit.

If you elect to treat the credit as a refundable credit, transfer the amount on line 9 to Form IT-201-ATT, line 77a; Form IT-203-B, line 62a; or Form IT-205, line 33. Enter the amount from line 10 on Form IT-201-ATT, line 56; Form IT-203-B, line 42; or Form IT-205, line 10.

If you elect to treat the credit as a carryover credit, enter the amount from line 11 on Form IT-201-ATT, line 56; Form IT-203-B, line 42; or Form IT-205, line 10.

## Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

## Need help?



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**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications:	1 800 462-8100
Refund status:	1 800 443-3200
Personal Income Tax Information Center:	1 800 225-5829
From areas outside the U.S. and outside Canada:	(518) 485-6800

**Hearing and speech impaired** (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110