

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

TSB-M-79(3)C
Corporation Tax
April 6, 1979

See also
TSB-M-78 (14) C

1978 Legislation

Additional Mortgage Recording Tax Credit and Interest Rate
on Assessments and Refunds

Chapter 788 of the Laws of 1978 provides that an additional tax of 25 cents on each \$100 and each remaining major fraction thereof be imposed on each mortgage, of realty situated in New York State, which is recorded on or after January 1, 1979. The tax is based on the principal debt or obligation secured by the mortgage.

The additional mortgage recording tax is paid by the borrower, except that it is to be paid by the lender where the realty is improved by a structure containing no more than six residential dwelling units with separate cooking facilities.

A qualified not-for-profit corporation is exempt from the tax. If such an organization is the borrower and is liable for the tax, the tax must be paid by the lender.

The act also provides for a credit allowed against the franchise tax imposed by the following:

Article 9-A	Business Corporations
Article 32	Banking Corporations
Article 33	Insurance Corporations
Article 9	Transportation & Utility Corporations
except for Section 180	Organization Tax
Section 181	License and Maintenance Fee of
	Foreign Corporations
Section 186-a	Tax on the furnishing of utility
	services

The amount of the credit shall be the amount of the additional mortgage recording tax paid by the taxpayer pursuant to the provisions of subdivision 1-a of section 253 of Article 11 of the Tax Law on mortgages recorded on or after January 1, 1979. Banking corporations are required to apply this credit against the tax before all other credits provided by Article 32, while all other eligible corporations must apply the credit after all other credits provided by their applicable article of the Tax Law.

The additional mortgage recording tax credit may not reduce the tax below the minimum tax required to be paid by each corresponding article of the Tax Law. If after the application of this credit against the tax there is a balance of unused mortgage recording tax credit, then this amount of credit may be carried forward to the next taxable period or periods and used to reduce the tax. This credit may not be refunded.

The amount of additional mortgage recording tax that is deducted in the computation of federal taxable income must be added back in the computation of entire net income for New York State Corporation Franchise Tax purposes.

When the property, with respect to which this additional mortgage recording tax was paid, is sold, and unless the additional mortgage recording tax credit is reflected in the federal computation of the gain on the sale so as to result in an increase in such gain, then this credit must be added to the federal gain to arrive at the gain that is reported on the New York State Franchise Tax Report.

The additional mortgage recording tax credit shall apply to taxable periods ending after December 31, 1978.

Chapter 788 also changes the maximum rate of interest which may be applied to corporation tax assessments and refunds from the rate prescribed by the banking board to the lesser of 8½% or the rate prescribed by the superintendent of banks and in effect on the date the tax commission proposes the adoption of or amendment to the regulations.

These are the sections of the New York State Tax Law which were affected by Chapter 788 that concern corporation franchise taxes:

<u>Reference</u>	<u>Synopsis</u>
Article 9, Article 9-A, Article 32, Article 33,	Section 187.1 Section 210.17(a) Section 1456(c)(1) Section 1511(e)(1)
Article 9, Article 9-A, Article 32,	Section 187.2 Section 210.17(b) Section 1456(c)(2)
Article 33,	Section 1511(e)(2)
Article 9-A, Article 32, Article 33,	Section 208.9(b)(4-a)(C) Section 1453(b)(5) Section 1503(b)(2)(E)
Article 9-A, Article 32, Article 33,	Section 208.9(b)(4-a)(D) Section 1453(b)(6) Section 1503(b)(2)(F)
Article 27,	Section 1096(e)