

Mortgages Executed by a Fire Company or Voluntary Ambulance Service Exempt from Mortgage Recording Tax

Section 253 of the Tax Law has been amended to provide that the mortgage recording tax will not be imposed on mortgages executed by fire companies and voluntary ambulance services, as both are defined in section 100 of the General Municipal Law. This exemption applies to mortgages recorded on or after August 15, 2007.

To qualify for the mortgage recording tax exemption pursuant to the recently enacted law, the fire company claiming exemption must demonstrate to the recording officer that it is an organization defined in section 100(2) of the General Municipal Law, while the volunteer ambulance service claiming exemption must demonstrate to the recording officer that it is an organization defined in section 100(3) of the General Municipal Law.

Section 100(2) of the General Municipal Law defines *fire company* to mean:

- a. A volunteer fire company of a county, city, town, village or fire district fire department, whether or not any such company has been incorporated under any general or special law,
- b. A fire corporation the members of which are volunteer firemen and which was incorporated under or is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law, which is not included within paragraph a above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district, or
- c. A fire corporation the members of which are volunteer firemen and which was incorporated under, or established pursuant to the provisions of, any general or special law, which is not included within paragraphs a and b above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village, fire district or a district corporation other than a fire district.

Section 100(3) of the General Municipal Law defines a *voluntary ambulance service* to mean "a voluntary ambulance service as defined in article thirty of the public health law and possessing a valid statement of registration or possessing a valid ambulance service certificate pursuant to article thirty of the public health law." Section 3001(3) of the Public Health Law defines *voluntary ambulance service* to mean "an ambulance service (i) operating not for pecuniary profit or financial gain, and (ii) no part of the assets or income of which is

distributable to, or enures to the benefit of, its members, directors or officers except to the extent permitted under this article."

To claim this mortgage recording tax exemption, two copies of an affidavit signed by the mortgagor, the mortgagee, or any other person who has knowledge of the facts must be filed at the time the mortgage is presented for recording. The affidavit must describe the mortgage and set forth that the basis for claiming the exemption is that the mortgage is being given by a fire company or voluntary ambulance service as defined in section 100(2) or (3) of the General Municipal Law, respectively.

NOTE: A TSB-M is an informational statement of changes to the law, regulations, or Department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information presented in a TSB-M.