

New York State Department of Taxation and Finance
Taxpayer Services Division
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Refundable Special Additional Mortgage Recording Tax

Article 9-A Corporations

With certain exceptions, Article 9-A taxpayers are allowed a credit against their Article 9-A tax liability for the special additional mortgage recording tax they pay on residential mortgages. The term residential mortgages means mortgages on real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facility. Any unused credits may be carried forward until they have been completely used.

The credit is not allowed for the special additional mortgage recording tax paid on residential mortgages recorded on or after May 1, 1987, 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.

The treatment of the Article 9-A special additional mortgage recording tax credit has been changed by adding a refund provision which is applicable to tax years beginning on or after January 1, 1994. The refund provision applies to carry-over credits of special additional mortgage recording taxes due and paid on residential mortgages in tax years beginning on or after January 1, 1994. Instead of carrying over the unused credit, the taxpayer may elect to have this amount refunded. No interest is allowed on these refunds. To request the refund file form CT-43.1, Claim for Refund of Unused Special Additional Mortgage Recording Tax Credit. The refund provision does not apply to any credit for special additional mortgage recording tax paid during tax years beginning on or after January 1, 1990, through December 31, 1993. Any unused credits from this period may still be carried forward until completely used.

S Corporations

The special additional mortgage recording tax credit is now allowed for S corporations (at the entity level) taxable under Article 9-A of the Tax Law. This credit is allowed for special additional mortgage recording tax due and paid in tax years beginning on or after January 1,

1994. Any carry-over of the credit of the corporation may be carried over from a New York C year to a New York S year or vice versa. The refund provisions described above also apply. The credit is applied to the tax of the corporation, not its shareholders. Therefore, both the credit and the refund will flow to the corporation, not its shareholders.

Section 606(i) of Article 22 of the Tax Law (Personal Income Tax) was amended to eliminate the flow-through of the special additional mortgage recording tax credit to individual shareholders of New York S corporations. This amendment is applicable to tax years of **shareholders** that begin after 1993.

However, under a special transitional rule, New York S corporation shareholders should claim their share of the credit attributable to a corporation's tax year that begins in 1993 and ends within the shareholder's tax year beginning in 1994. The corporation is not allowed to claim this credit against its Article 9-A tax, since the corporation credit is not effective till tax years of the corporation beginning in 1994 and thereafter. In addition, S corporation shareholders may continue to carry over any unused credit attributable to the transitional rule or to tax years beginning before 1994.

Articles 9, 32 and 33 Businesses

No refunds of this credit are allowed to Article 9, 32, or 33 filers.