New York Assign LLC

BENEFITS OF MORTGAGE TAX ASSIGNMENTS

Mortgage Tax Assignments

New York State requires that a tax be paid on any new mortgage that is recorded within the state's boundaries. The mortgage tax rate varies by county and exact mortgage tax rates are widely available. As a general rule, New York State mortgage tax within the 5 boroughs of New York City range between 1.8% and 2.8% depending on the type of property mortgaged and .08%-1.25% outside of the 5 boroughs on New York City.

New York tax law permits a mortgagor to avoid a payment of mortgage tax through an assignment of an existing mortgage. To assign the mortgage, a homeowner must obtain consolidation, extension and modification of the original mortgage. A consolidation, extension and modification is achieved by contacting the existing lender and consolidating the original note and mortgage with the new note and mortgage. As long as both the existing lender and the new lender agree to the assignment, the mortgagor can avoid the payment of mortgage tax. The mortgagor is, however, responsible to pay mortgage tax on any amount above the existing lien on the property or the "new money".

Benefit to the Purchaser

A purchaser can avoid the payment of New York State mortgage tax by having the seller assign their existing lien to the new lender. It requires comprehensive research, coordination with seller, seller's lender seller's attorney, new lender, new lender's attorney, borrower and borrower's attorney and title company in the facilitation of the assignment.

The seller must authorize their lender to assign the existing lien to the new lender. The existing lender must allow for their loan to be assigned and the new lender must be willing to accept an assigned lien. It is a bit more work, but the benefits for everyone in the transaction can be tremendous. The purchaser will pay New York State Mortgage tax on any "new" money that they are mortgaging. "New money" will be the difference between the existing assigned lien and the new mortgage.

Benefits to the Seller

The Seller in an assignment of mortgage will be entitled to a "continuing lien deduction". That deduction gives transferors of real property in New York the right to deduct from the amount of consideration otherwise subject to the New York Real Property Transfer Tax the amount of any lien or encumbrance on the property which is being conveyed. **The exemption is available for any real estate conveyance where the consideration of less than $500,000, but if the consideration exceeds $500,000, then the exemption is available only when the property being conveyed is a one, two or three-family house or an individual residential condominium unit.**

The basis for this exemption is in the same section of the New York Tax Law which imposes the transfer tax, Section 1402 of the New York Tax Law.

For example, if a seller/assignor has an outstanding balance of $750,000 on the loan secured by the mortgage being assigned, the seller/assignor has a "continuing lien deduction" of $750,000 from his sale price which reduces the New York State transfer tax by $3,000, namely the 0.4% transfer tax times the amount of the debt secured by the assigned mortgage.

Benefits to the Lender

The lender saves too! Lenders must pay .25% in New York State mortgage tax on the total mortgage amount given to their client. If the lender accepts the assignment, they also are not required to pay New York State mortgage tax on the assigned lien.

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New York Assign LLC has broad expertise in the facilitation of mortgage tax assignments. We truly are experts in this field. Most CEMA and purchase CEMA transactions can be achieved within 3 to 5 weeks.

***The New York State tax laws are listed below.

The New York Mortgage tax is imposed by New York Tax Law, Title 11, Section 253. The right to avoid a second payment of Mortgage tax is permitted by New York Tax Law, The continuing lien deduction applies to a one, two or three family homes as well as residential condominiums. Title 11, Section 255.