

Affidavit Claiming Exemption from Mortgage Tax Aggregation When Mortgagor/Borrower is a Business Entity

Title No.: _____

State of _____)
County of _____) ss:

_____, being duly sworn, deposes and states that:

1. I am _____ of _____ (insert capacity of person signing and the name of the entity), a/the mortgagor/borrower of the mortgage dated _____ (“New Mortgage”) in the principal amount of \$ _____ made to _____ [insert name of mortgagee/lender of New Mortgage] on property with the address of _____ (the “Property”), identified on the tax map of the City of New York as _____ County, Block _____ Lot _____. Said mortgage is being submitted for recording in the Office of the City Register, City of New York, in _____ County.
2. Within the last twelve months there was recorded against the Property a mortgage dated _____ (“Prior Mortgage”) in the principal amount of \$ _____ made by the mortgagor of the New Mortgage or a “related” mortgagor/borrower, as defined in Tax Law § 253-a(2)(b) (see below definition), to _____ [insert name of mortgagee/lender of Prior Mortgage], which Prior Mortgage was recorded on _____ as CRFN _____.
3. The Prior Mortgage has been paid and satisfied and a Satisfaction of the Prior Mortgage has been requested for recording in the Office of the Register, _____ County and are therefore not part of the same or related transaction.
4. Affiant therefore respectfully requests that the New Mortgage and Prior Mortgage not be subject to aggregation for purposes of determining the applicable rate of mortgage recording tax.

Sworn to before me this _____ day of _____, 200____

“Related” Mortgagors as defined by Tax Law § 253-a(2)(b)

The term related, when used with reference to mortgagors, shall include but not be limited to:

- (i) members of a family, including spouses, ancestors, lineal descendants, and brothers and sisters (whether by whole or half blood);
- (ii) a shareholder and a corporation where more than 50% of the value of the outstanding stock of such corporation is owned or controlled directly or indirectly by such shareholder;
- (iii) a partner and a partnership where more than 50% of the capital or profits in such partnership is owned or controlled directly or indirectly by such partner;
- (iv) a beneficiary and a trust where more than fifty percent of the beneficial interest in such trust is owned or controlled directly or indirectly by such beneficiary;
- (v) two or more corporations, partnerships, associations, or trusts, or any combination thereof, which are owned or controlled, either directly or indirectly, by the same person, corporation or other entity, or interests; and
- (vi) a grantor of a trust and the trust.