

DISTRIBUTION OF MORTGAGE RECORDING TAX RECEIPTS TO VILLAGES

A JOINT REPORT BY THE OFFICES OF THE
ULSTER COUNTY CLERK
&
ULSTER COUNTY COMPTROLLER



We would like to thank the Staff of the Ulster County Information Services Department, the Ulster County Department of Finance, the Clerk of the Legislature, the New York State Department of Taxation and Finance, and the Mayor of the Village of New Paltz for their assistance in providing the information needed to prepare this report.

Background:

New York State imposes a tax on the privilege of recording a mortgage on real property located within the state.¹ The ultimate beneficiaries of this tax are the Villages, Towns and Cities in which the mortgages originate. The County serves as an intermediary in the collection and subsequent distribution of the tax to the other local governments. In Ulster County, there is no county mortgage tax in place. There is a basic tax of \$0.50 per \$100 of mortgage debt or obligation secured which is allocated to the local municipalities, and there is a special additional tax of \$0.25 per \$100 which is allocated to New York State. This tax is collected by the County Clerk who records the mortgage and keeps all related records. The Ulster County Clerk remits the amounts collected, less a recording officer's expense, to the Ulster County Commissioner of Finance monthly. The Commissioner of Finance acts as custodian for the funds and records a liability payable to the local municipalities in the County's financial records.

Every six months, the County Clerk submits report to the New York State Department of Taxation and Finance detailing the mortgage tax collections as well as the amount deducted for the recording officer's expenses by municipality. The six-month periods are April through September and October through March, and the reports are due 15 days after the close of the period (May 15th and November 15th).

After NYS approves the County Clerk's report in writing, the Clerk of the County Legislature drafts a resolution to pay the municipalities. When the resolution has passed, it becomes an order to the County Commissioner of Finance to distribute the net tax collections as prescribed. New York State Tax Law, Article 11, Section 261(3) describes the process by which the mortgage taxes collected by the State are remitted to the local municipalities:

"In each county not within the city of New York, the whole of the net amount of such balance, after the deduction by the county treasurer of the necessary expenses of his or her office provided in section two hundred sixty-two of this article, shall be held by him or her and shall be allocated to the tax districts of the county according to the location of the real property covered by the respective mortgages upon which the tax was collected. The recording officer and county treasurer shall prepare a joint semi-annual report on or before May fifteenth and on or before November fifteenth in each year showing the

¹ NYS Department of Tax and Finance, Mortgage Recording Tax, available at <https://www.tax.ny.gov/pit/mortgage/mtgidx.htm>.

amounts to be credited to each tax district of the county of the moneys collected under this article during the preceding periods of six months each which ended respectively on March thirty-first and September thirtieth. Such report shall be made in duplicate in accordance with the rules and regulations of the commissioner and filed with the clerk of the board of supervisors and the commissioner. The board of supervisors, on or before the fifteenth day of June and on or before the fifteenth day of December in each year, ... the payment to the respective tax districts of the amounts so credited, ***provided, however, that in a county in which a town contains within its limits an incorporated village, or portion thereof, the board of supervisors[governing body] shall apportion to such village so much of the share credited to the town as the assessed value of said village or portion thereof bears to twice the total assessed valuation of the town, ...***²

In March of 2024, Tim Rogers, the mayor of the Village of New Paltz, brought to the Comptroller's attention that the percentage of the total Village mortgage tax distributions had historically been approximately 26% of the total Town of New Paltz mortgage tax receipts, but after 2020 the percentage paid to the Village of New Paltz varied greatly ranging from 16% to 53%.

The County Clerk's report to New York State Department of Taxation and Finance does not inform the State of the amount of tax to be distributed to a village, rather it simply indicates that a village exists within the confines of a Town. NYS prescribes the format of the report, and as a village amount is not required on the reporting, a verification of the mortgage tax formula does not occur at the State level. Considering the recent fluctuations in village percentages of mortgage tax distributions and the absence of state review, the County Comptroller's office initiated a review of the mortgage recording tax formulas relating to villages that were utilized in the drafting of the legislative resolutions.

Scope & Procedures:

The Ulster County Comptroller's Office performed the following procedures to review the County's Compliance with New York State Tax Law:

1. Recalculated the mortgage tax distributions to the three Villages located within Ulster County for the past fourteen periods (the period beginning 10/1/16 through the period ending 9/30/23) using the formula prescribed by State Law.
2. Reviewed the general ledger postings for the collection and subsequent disbursement of mortgage tax to ensure that all taxes collected are appropriately remitted.
3. Reviewed resolution number 254 of 2024 for compliance with New York State Law.

² New York State Tax Law, Article 11, § 261(3)

Findings & Recommendations:

1. **Finding:** Upon review of the mortgage tax distributions to the Villages of Ulster County, we found that the Villages had been overpaid and that the Towns had been underpaid. The overpayments to the Villages were a result of two separate series of facts:
 - A. For the periods beginning October 1, 2020, through the period ending September 30, 2023, The County had been relying on an external software vendor IQS to calculate the distribution of tax owed to the Villages and the Towns. The vendor used precise locations of the mortgage origination rather than following the formula prescribed by State law.
 - B. For the periods prior to this, we discovered that the calculation had been made using taxable assessed value rather than total assessed value, and that the total assessed value of the Town had not been doubled. This caused the total tax distributed to the Village to be greater than State law calls for.

The Comptroller's office recalculation found the following over the past seven years:

- I. The Village of New Paltz was overpaid mortgage tax distributions of \$196,834, and the Town of New Paltz was underpaid by that same amount.
- II. The Village of Ellenville was overpaid mortgage tax distributions of \$285,597, and the Town of Wawarsing was underpaid by that same amount.
- III. The Village of Saugerties was overpaid mortgage tax distributions of \$215,805, and the Town of Saugerties was underpaid by that same amount.

Recommendation: We recommend that the County take a forward-looking approach and calculate all future mortgage tax distributions in accordance with State law. The Ulster County Comptroller's office has received confirmation from the New York State Department of Taxation and Finance that this is the best course of action.

2. **Finding:** Our review of the general ledger postings within the County's financial system found that the County Department of Finance has been compliant with the warrants issued by the County Legislature, and that journal entries for collections and payments are being recorded appropriately.
Recommendation: We make no recommendation to the Department of Finance with respect to mortgage tax.
3. **Finding:** Our review of resolution number 254 of 2024 found the calculation of the tax owed to the Village to be accurate.
Recommendation: We make no recommendation to the Clerk of the Legislature with respect to mortgage tax for this period as the calculation is correct.

Conclusion

Our review focused on Ulster County's adherence to New York State Tax Law concerning the collection and allocation of mortgage taxes. Discrepancies were identified in the calculation formula utilized for the distributions to Ulster County's three Villages. This led to overpayments for Villages and underpayments for Towns. Our recommendation focuses on aligning future distributions with State regulations and strict adherence to applicable allocation formulas. These findings and suggestions will ensure equitable and lawful distribution of mortgage tax proceeds across all municipalities within Ulster County.

Village and Town of Saugerties									
Assessed Value Year	Period	Resolution #	Actuals				Recalculated		
			Town	Village	Total	Village % of total actually received	Village share of total % Should Be	Village Share of Mortgage Tax Should be	Difference
2016	10/1/16 - 3/31/17	227 of 2017	157,691	30,966	188,657	16.4140%	8.74175%	16,491.91	(14,474.23)
2017	4/1/17 - 9/30/17	455 of 2017	174,784	34,323	209,107	16.4140%	8.75292%	18,302.93	(16,019.84)
2017	10/1/17 - 3/31/18	206 of 2018	192,284	37,741	230,024	16.4073%	8.75292%	20,133.84	(17,606.96)
2018	4/1/18 - 9/30/18	486 of 2018	134,444	26,388	160,832	16.4073%	8.73880%	14,054.79	(12,333.40)
2018	10/1/18 - 3/31/19	176 of 2019	156,792	30,839	187,631	16.4361%	8.73880%	16,396.71	(14,442.53)
2019	4/1/19 - 9/30/19	533 of 2019	177,859	34,983	212,842	16.4361%	8.74729%	18,617.88	(16,364.99)
2019	10/1/19 - 3/31/20	194 of 2020	219,804	43,502	263,306	16.5214%	8.74729%	23,032.13	(20,469.69)
2020	4/1/20 - 9/30/20	437 of 2020	200,865	39,754	240,619	16.5214%	8.71679%	20,974.24	(18,779.34)
2020	10/1/20 - 3/31/21	286 of 2021	332,897	58,956	391,853	15.0454%	8.71679%	34,157.00	(24,798.86)
2021	4/1/21 - 9/30/21	553 of 2021	511,057	51,892	562,949	9.2179%	8.64333%	48,657.54	(3,234.34)
2021	10/1/21 - 3/31/22	283 of 2022	501,536	69,366	570,902	12.1502%	8.64333%	49,344.98	(20,021.01)
2022	4/1/22 - 9/30/22	595 of 2022	493,454	66,064	559,518	11.8073%	8.48765%	47,489.95	(18,573.91)
2022	10/1/22 - 3/31/23	315 of 2023	246,833	28,819	275,652	10.4548%	8.48765%	23,396.42	(5,422.53)
2023	4/1/23 - 9/30/23	657 of 2023	276,819	39,738	316,557	12.5531%	8.36324%	26,474.39	(13,263.21)

Overpayment to Village (215,804.82)

Village of Ellenville & Town of Wawarsing										
Assessed Value Year	Period	Resolution #	Actuals				Recalculated			
			Town	Village	Total	Village % of total actually received	Village share of total % Should Be	Village Share of Mortgage Tax Should be	Difference	
2016	10/1/16 - 3/31/17	227 of 2017	59,801.37	8,781.72	68,583.09	12.8045%	7.12616%	4,887.34	(3,894.38)	
2017	4/1/17 - 9/30/17	455 of 2017	53,064.61	7,792.44	60,857.05	12.8045%	7.11845%	4,332.08	(3,460.36)	
2017	10/1/17 - 3/31/18	206 of 2018	63,209.58	9,269.00	72,478.58	12.7886%	7.11845%	5,159.35	(4,109.65)	
2018	4/1/18 - 9/30/18	486 of 2018	62,903.42	9,224.10	72,127.52	12.7886%	7.10341%	5,123.51	(4,100.59)	
2018	10/1/18 - 3/31/19	176 of 2019	80,585.80	11,809.82	92,395.62	12.7818%	7.10341%	6,563.24	(5,246.58)	
2019	4/1/19 - 9/30/19	533 of 2019	71,452.67	10,471.37	81,924.04	12.7818%	7.08954%	5,808.04	(4,663.33)	
2019	10/1/19 - 3/31/20	194 of 2020	77,460.39	11,284.44	88,744.83	12.7156%	7.08954%	6,291.60	(4,992.84)	
2020	4/1/20 - 9/30/20	437 of 2020	80,919.84	11,788.41	92,708.25	12.7156%	7.05316%	6,538.86	(5,249.55)	
2020	10/1/20 - 3/31/21	286 of 2021	118,189.58	57,196.85	175,386.43	32.6119%	7.05316%	12,370.29	(44,826.56)	
2021	4/1/21 - 9/30/21	553 of 2021	140,871.45	46,616.33	187,487.78	24.8637%	6.96579%	13,060.00	(33,556.33)	
2021	10/1/21 - 3/31/22	283 of 2022	145,985.67	49,093.43	195,079.10	25.1659%	6.96579%	13,588.80	(35,504.63)	
2022	4/1/22 - 9/30/22	595 of 2022	88,911.06	81,550.80	170,461.86	47.8411%	6.96134%	11,866.43	(69,684.37)	
2022	10/1/22 - 3/31/23	315 of 2023	107,396.88	44,035.53	151,432.41	29.0793%	6.96134%	10,541.73	(33,493.80)	
2023	4/1/23 - 9/30/23	657 of 2023	107,147.65	43,339.49	150,487.14	28.7995%	6.99428%	10,525.49	(32,814.00)	

Overpayment to Village (285,596.97)

Village and Town of New Paltz									
Assessed Value Year	Period	Resolution #	Actuals				Recalculated		
			Town	Village	Total	Village % of total actually received	Village share of total % Should Be	Village Share of Mortgage Tax Should be	Difference
2016	10/1/16 - 3/31/17	227 of 2017	114,779	41,306	156,085	26.4636%	22.8324%	35,637.98	(5,667.76)
2017	4/1/17 - 9/30/17	455 of 2017	77,162	27,769	104,931	26.4636%	22.7524%	23,874.32	(3,894.18)
2017	10/1/17 - 3/31/18	206 of 2018	139,300	49,807	189,107	26.3379%	22.7524%	43,026.47	(6,780.40)
2018	4/1/18 - 9/30/18	486 of 2018	100,812	36,045	136,857	26.3379%	22.7807%	31,177.09	(4,868.24)
2018	10/1/18 - 3/31/19	176 of 2019	99,619	35,739	135,358	26.4031%	22.7807%	30,835.46	(4,903.15)
2019	4/1/19 - 9/30/19	533 of 2019	91,533	32,838	124,371	26.4031%	22.7904%	28,344.70	(4,493.09)
2019	10/1/19 - 3/31/20	194 of 2020	105,846	38,191	144,037	26.5148%	22.7904%	32,826.71	(5,364.46)
2020	4/1/20 - 9/30/20	437 of 2020	125,584	45,313	170,897	26.5148%	22.7848%	38,938.46	(6,374.44)
2020	10/1/20 - 3/31/21	286 of 2021	199,180	36,662	235,842	15.5451%	22.7848%	53,736.16	17,074.29
2021	4/1/21 - 9/30/21	553 of 2021	191,063	113,865	304,928	37.3417%	22.7957%	69,510.59	(44,354.73)
2021	10/1/21 - 3/31/22	283 of 2022	176,485	198,856	375,341	52.9802%	22.7957%	85,561.80	(113,294.63)
2022	4/1/22 - 9/30/22	595 of 2022	188,684	63,871	252,555	25.2899%	22.7238%	57,390.28	(6,480.73)
2022	10/1/22 - 3/31/23	315 of 2023	99,382	49,344	148,726	33.1777%	22.7238%	33,796.16	(15,547.59)
2023	4/1/23 - 9/30/23	657 of 2023	109,093	21,549	130,642	16.4946%	22.7061%	29,663.67	8,114.83

Overpayment to Village (196,834.26)