

Date: May 27, 2004

Re: ACRIS Phase 2.1 E-Tax Implementation Date Tentatively Set for July 5, 2004

At a meeting attended by representatives of the New York City Department of Finance (the Department) and the New York State Land Title Association (the Association), a tentative date of Monday, July 5th, 2004, was established for the implementation of the ACRIS (Automated City Register Information System) Phase 2.1 E-Tax Application. Although the Department indicated that its system would be operational on that date (which is a holiday), for all practical purposes, most title industry representatives will first utilize the system on Tuesday, July 6th.

As discussed in earlier memos from this Office, Phase 2.1 enables the user of the ACRIS system to create the tax returns and ancillary forms electronically. As originally contemplated, electronic preparation of the forms were to be required by the City Register at the time Phase 2.1 was implemented. The forms would be printed from the preparer's computer, and then executed by the parties either prior to or at the closing of title.

As Phase 2.1 presently exists, the e-tax application requires the user to enter his password. Where a change or amendment has to be made at closing to an e-tax form, only the person who prepared the form (i.e., the attorney or other person who had access to his password) can make the change. Consequently, the preparer would have to

- a. have access, at closing, to a computer and printer, go into his tax application, make the required change, and print out the amended form; or

- b. call his office and have an associate go into the application, make the required change, and fax the revised form to the closing; or
- c. provide the title representative with his password and allow the title company or agent to prepare the amended forms for execution at closing.

The Association expressed its concern to the Department that the above-mentioned alternatives would pose problems for many practitioners and could result in the postponement of many closings.

The Department recognized the concerns of the Association and has agreed to explore a modification to the ACRIS Phase 2.1 program that would allow changes to be made to the e-tax application (with the consent of the parties to the transaction) by the preparer of the document cover page (presumably the title company or agent handling the closing). This would allow the closing to take place, with the authorized changes made by the title company or agent, at or after closing.

Accordingly, the Department has indicated that, until such time as the issue of releasing control of the e-tax application to the cover page preparer has been resolved to the satisfaction of the Department and the Association, it would agree that, on and after the Phase 2.1 implementation date (i.e., July 5th, 2004), the following are acceptable alternative methods of preparation of the tax returns:

1. Where an attorney comes to a closing with e-tax forms which he has created, and a change to the forms must be made at closing, only the attorney (i.e., the person who created the e-tax form or has his password) can change it by accessing the application; or
2. Where the attorney has not prepared an e-tax application, he can come to closing with the currently existing paper tax forms, handwritten or typed, make any changes required at closing, have them executed by the parties to the transaction, and deliver them to the closer. The forms and closing instruments will then be brought to the title company or agent office that handled the closing. The title company or agent would then prepare the e-tax forms on line, using the information provided on the handwritten forms, print out the completed e-tax forms and send them (unsigned), together with the signed, completed paper tax forms and the instruments to be recorded to the City Register's Office. The Department has agreed to accept the unsigned e-tax forms provided that they are accompanied by the signed paper forms.

In addition to accepting executed paper versions of the New York City Real Property Transfer Tax Return and the New York State TP-584 Real Estate Transfer Tax Return as set forth in Item 2. above, the Department has also agreed to accept executed paper versions of the NYS Real Property Transfer Report

