



EC LEG MAY 29 '25 AM 11:19

ERIE COUNTY COMPTROLLER
KEVIN R. HARDWICK

May 28, 2025

Hon. Michael P. Kearns
Erie County Clerk
92 Franklin Street
Buffalo, New York 14202

Re: 2025 County Clerk Expenses for Mortgage Tax

Dear Mr. Kearns:

I am writing concerning your lack of Mortgage Tax expense deduction for Erie County's fiscal year 2025. Such deductions are authorized pursuant to Section 262 of the New York State Tax Law. Your actions may lead to several issues: (1) a gap in the County's 2025 Budget totaling \$1.577 million; and (2) a failure to comply with an Erie County Legislature resolution authorizing you to charge \$672,302 for such expenses.

In your proposed 2025 Budget submission, you requested that the Legislature certify that \$1,577,535 of eligible expenses would be incurred by your office in the collection of the Mortgage Tax for 2025 (see attached document provided by your office to the Legislature). The Legislature did not accept and certify the \$1,577,535 estimate for 2025 in the amended and adopted 2025 Budget (but somehow, the revenue estimate was still erroneously included in the adopted Book A budget for the Registrar Division despite the Book B Budget Resolution being removed).

In April 2024, you similarly introduced a resolution at the County Legislature (Comm. 7E-10, attached) attesting to your expenses as \$1,897,679 for 2024 (the adopted 2024 Budget was \$617,104 as proposed by you) and sought Legislature authorization to deduct said expenses from the Mortgage Tax distribution. The Legislature did not approve of the increase and change. In this year's adopted budget, the Legislature did not include or certify any number for Mortgage Tax expenses for 2025.

Subsequently, for the months of January, February and March 2025, in your monthly MT-4 Statement of Mortgages Recorded report to New York State, you did not include any of your office's mortgage tax expenses as deductions. On March 13, 2025, based in part on an analysis and numbers provided by my office at the body's request, the Erie County Legislature authorized and certified \$672,302 as the expense amount for 2025 (Intro. 5-8,

attached). In your monthly MT-4 reports for April and May 2025, you have again chosen not to deduct any expenses whatsoever.

That decision has led to a gap in the County's 2025 Budget, a factor the County's Director of Budget and Management noted in his First Quarter 2025 Budget Monitoring Report issued on May 19, 2025.

Therefore, I am writing to request a response from you about why you have decided not to comply with Intro. 5-8 and deduct \$672,302 in Mortgage Tax expenses for 2025. While that would not resolve the entirety of the budget gap, it would address some of the financial problems created by this situation and just as importantly, the Clerk's Office would be in compliance with the County Legislature's resolution.

I look forward to hearing from you. Thank you in advance for your assistance and anticipated cooperation.

Sincerely,



Kevin R. Hardwick, Ph.D.
Erie County Comptroller

Attachments

cc: Erie County Legislature
Erie County Executive Mark C. Poloncarz
Erie County Attorney Jeremy C. Toth
Erie County Director of Budget and Management Mark Cornell

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., December 7, 2023

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, that at the 23rd Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the 7th day of December, 2023 A.D., a Resolution was adopted, of which the following is a true copy:

WHEREAS, under Section 262 of the New York State Tax Law, County Clerks are entitled to recover expense associated with the administration and collection of the Mortgage Tax; and

WHEREAS, the County Clerk's Office has provided sufficient documentation of the following expense related to the collection of mortgage tax:

Salaries and Fringe Benefits: Computer	\$540,000
Data Processing Expense	77,104
TOTAL	\$617,104

and

WHEREAS, the New York State Tax Commission requires certification from the local legislature that such expense is reasonable,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby certify that the expense incurred in the collection of the State Mortgage Tax as per 262 of the New York State Tax Law equals \$617,104 for fiscal year 2024, as submitted by the County Clerk

REFERENCE: COMM. 18E-3 (2023) AS AMENDED

ATTEST



OLIVIA M. OWENS
Clerk of the Legislature of Erie County

**STATE OF NEW YORK
LEGISLATURE OF ERIE COUNTY
BUFFALO, NEW YORK**

**A Resolution Submitted by the Erie County Clerk
Re: Mortgage Tax Expense 2024**

WHEREAS, under Section 262 of the New York State Tax Law, County Clerks are entitled to recover expenses associated with the administration and collection of the Mortgage Tax; and

WHEREAS the Erie County Clerk's Office has provided sufficient documentation of the following expenses related to the collection of mortgage tax:

Salaries and Fringe Benefits:	\$1,722,803.00
Computer, Data Processing Expense:	\$174,876.00
TOTAL:	\$1,897,679.00

WHEREAS, the New York State Tax Commission requires certification from the local legislature that such expense is reasonable.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby certify that the expense incurred in the collection of the State Mortgage Tax as per Section 262 of the New York State Tax Law equals \$1,897,679.00, as submitted by the Erie County Clerk; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the Erie County Executive; the Erie County Attorney; the Director of the Division of Budget and Management; the Erie County Comptroller; and the Erie County Clerk.

ERIE COUNTY CLERK - 2025 MORTGAGE TAX EXPENSE RETENTION CALCULATION

PART I: COUNTY CLERK EXPENSES PER 2024 BUDGET

	PERCENT ALLOCATED	NUMBER OF EMPLOYEES	ANNUAL SALARY	FRINGE BENEFITS	TOTAL SALARY & BENEFITS	ALLOCATED TOTAL
A. County Clerk	15%	1	\$ 90,129.00	\$ 48,440.13	\$ 138,569.13	\$ 20,785
First Deputy County Clerk	50%	1	\$ 138,613.00	\$ 74,498.02	\$ 213,111.02	\$ 106,556
Principal Technical Support SVS Specialist	80%	1	\$ 114,157.00	\$ 61,354.06	\$ 175,511.06	\$ 140,409
Deputy County Clerk Finance	80%	1	\$ 100,860.00	\$ 54,207.55	\$ 155,067.55	\$ 124,054
Deputy County Clerk Legal	20%	1	\$ 80,390.00	\$ 43,205.88	\$ 123,595.88	\$ 24,719
Supervising Data Processing Control Clerk	70%	1	\$ 77,990	\$ 41,916	\$ 119,906	\$ 83,934
Supervisor of Records	20%	1	\$ 80,331	\$ 43,174	\$ 123,505	\$ 24,701
Accountant	40%	1	\$ 57,309	\$ 30,801	\$ 88,110	\$ 35,244
Chief Document Clerk	80%	1	\$ 70,862	\$ 38,085	\$ 108,946	\$ 87,157
Assistant Supervisor of Records	30%	1	\$ 65,498	\$ 35,202	\$ 100,700	\$ 30,210
Senior Document Clerk	80%	12	\$ 654,216	\$ 351,611	\$ 1,005,827	\$ 804,661
Document Clerk	50%	5	\$ 252,445	\$ 135,677	\$ 388,122	\$ 194,061
Receptionist	1%	1	\$ 47,003	\$ 25,262	\$ 72,265	\$ 723
Clerk Part Time	30%	5	\$ 98,839	\$ 53,122	\$ 151,961	\$ 45,588
TOTAL SALARIES AND BENEFITS		33	\$ 1,928,642	\$ 1,036,555	\$ 2,965,197	\$ 1,722,803

OTHER ASSOCIATED EXPENSES

B. 75% of New Vision Annual Fees of \$95 k	\$ 71,250
C. 5% of estimated costs of \$900,000 for new system and hardware in year 1	\$ 45,000
D. 20% of estimated indirect costs of \$293,131	\$ 58,626
TOTAL OTHER ASSOCIATED COSTS	\$ 174,876
TOTAL ESTIMATED ANNUAL MORTGAGE TAX EXPENSES	\$ 1,897,679

2025 ALLOCATION OF COSTS FOR NYS FISCAL YEAR (APRIL TO MARCH)

	TOTAL EXPENSE	2025 PERCENTAGE	2025 EXPENSE
MORTGAGE TAX EXPENSE APPROVED BY LEGISLATURE ON DECEMBER 7, 2023	\$ 617,104	25%	\$ 154,276
2025 ESTIMATED MORTGAGE TAX EXPENSE FOR RETENTION (as per above)	\$ 1,897,679	75%	\$ 1,423,259
2025 ESTIMATED MORTGAGE TAX REVENUE FOR 2025 BUDGET			\$ 1,577,535

2025 ALLOCATION OF COSTS FOR COUNTY RESOLUTIONS

	TOTAL EXPENSE	2025 PERCENTAGE	2025 EXPENSE
SALARIES AND BENEFITS PER DECEMBER 2023 RESOLUTION	\$ 540,000	25%	\$ 135,000
SALARIES AND BENEFITS PER 2025 CALCULATION (as per above)	\$ 1,722,803	75%	\$ 1,292,102
TOTAL SALARIES FOR 2025 MORTGAGE TAX BUDGET AND RESOLUTION			\$ 1,427,102
DATA PROCESSING EXPENSE PER DECEMBER 2023 RESOLUTION	\$ 77,104	25%	\$ 19,276
COMPUTER, DATA PROCESSING EXPENSE PER 2025 CALCULATION (as per above)	\$ 174,876	75%	\$ 131,157
TOTAL COMPUTER, DATA PROCESSING FOR 2025 MORTGAGE TAX BUDGET AND RESOLUTION			\$ 150,433
2025 ESTIMATED MORTGAGE TAX EXPENSE FOR 2025 BUDGET RESOLUTION			\$ 1,577,535

**STATE OF NEW YORK
LEGISLATURE OF ERIE COUNTY
BUFFALO, NEW YORK**

**A Resolution Submitted by the Erie County Clerk
Re: Mortgage Tax Expense 2025**

WHEREAS, under Section 262 of the New York State Tax Law, County Clerks are entitled to recover expenses associated with the administration and collection of the Mortgage Tax; and

WHEREAS the Erie County Clerk's Office has provided sufficient documentation of the following expenses related to the collection of mortgage tax:

Salaries and Fringe Benefits:	\$1,427,102
Computer, Data Processing Expense:	<u>150,433</u>
TOTAL:	\$1,577,535

WHEREAS, the New York State Tax Commission requires certification from the local legislature that such expense is reasonable.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby certify that the expense incurred in the collection of the State Mortgage Tax as per 262 of the New York State Tax Law equals \$1,577,535 for fiscal year 2025 as submitted by the Erie County Clerk.

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., March 13, 2025

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, that at the *5th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the 13th day of March, 2025 A.D., a Resolution was adopted, of which the following is a true copy:*

WHEREAS, under Section 262 of the New York State Tax Law, County Clerks as Recording Officers are entitled to recover expenses associated with the administration and collection of the Mortgage Tax; and

WHEREAS, the Erie County Comptroller's Office has provided reasonable and sufficient documentation of the following expenses related to the collection of mortgage tax, consisting of \$596,281 for salaries and fringe benefits and \$76,021 for computer and data processing expenses, for a total of \$672,302; and

WHEREAS, the New York State Department of Taxation and Finance requires certification from the local legislature that such expense is reasonable.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby certify that the expense incurred in the collection of the State Mortgage Tax as per Section 262 of the New York State Tax Law equals \$672,302 for fiscal year 2025, as submitted; and be it further

RESOLVED, that the Clerk of the Legislature send certified copies of this resolution to the New York State Department of Taxation and Finance, Erie County Clerk, and Erie County Comptroller.

REFERENCE: **INTRO. 5-8 (2025)**