

**STATE OF NEW YORK MORTGAGE AGENCY**  
(A MUNICIPAL CORPORATION AND POLITICAL SUBDIVISION OF NEW YORK STATE)  
**RECAPTURE NOTIFICATION AND MORTGAGOR'S AFFIDAVIT**  
(TO BE COMPLETED AND EXECUTED BY ALL PURCHASERS AND  
GUARANTORS AT LOAN APPLICATION AND AGAIN AT TITLE CLOSING)

IT MAY BE A FEDERAL OFFENSE PUNISHABLE BY A MAXIMUM OF A \$5,000 FINE, TWO YEARS IMPRISONMENT, OR BOTH, TO KNOWINGLY MAKE A FALSE STATEMENT IN THIS AFFIDAVIT (TITLE 18 UNITED STATES CODE, SECTION 1014). READ THIS AFFIDAVIT CAREFULLY TO BE SURE THE INFORMATION IN IT IS TRUE AND COMPLETE BEFORE SIGNING THIS FORM. PLEASE BE ADVISED THAT THE STATE OF NEW YORK MORTGAGE AGENCY HAS A POLICY OF INDEPENDENTLY VERIFYING THE INFORMATION YOU PROVIDE.

SONYMA # \_\_\_\_\_

Mortgage Lender Name: \_\_\_\_\_

Mortgagor(s): \_\_\_\_\_

Property Seller(s): \_\_\_\_\_

Total persons expecting to occupy the Residence (including children): \_\_\_\_\_

**PART I - RECAPTURE NOTIFICATION**

A home purchase financed with a mortgage loan (the "Mortgage Loan") made available by the State of New York Mortgage Agency (the "Agency" or "SONYMA") is generally made at an interest rate below what is usually charged in the marketplace. A down payment assistance loan ("Down Payment Loan"), also made available by SONYMA and used in conjunction with a Mortgage Loan, assists Mortgagors by providing funds for the down payment and/or closing costs on the purchase of a home. If the Mortgagor receives a Mortgage Loan and if applicable, a Down Payment Loan from SONYMA, the Internal Revenue Code of 1986, as amended (the "Code") requires a payment to the Federal government of certain gain (I/we) realize on the sale or transfer of (my/our) home. This gain which must be paid, called the "recapture amount," is due in connection with (my/our) Federal income tax return for the year the house is sold. This provision applies to any disposition of (my/our) home within nine (9) years of the date (I/we) acquire it with certain limited exceptions. The recapture amount will (i) increase during the first five years of ownership with full "recapture" occurring if (I/we) sell (my/our) house at the end of the fifth year following the date of the Mortgage Loan (and, if applicable, the Down Payment Loan) and (ii) decrease ratably to zero with respect to a sale occurring in years six through nine. The recapture amount may not exceed the LESSER of (i) 50 percent of the gain (I/we) realize by the sale of (my/our) home or (ii) 6.25 percent of the combination of (my/our) original Mortgage Loan amount and Down Payment Loan amount. (I/We) will not have to pay part or all of the recapture if (my/our) income, at the time of the sale of (my/our) home is less than a prescribed amount. NEVERTHELESS, THE CODE REQUIRES THAT (I/WE) FILE FORM 8828 (OR A SUCCESSOR) TITLED "RECAPTURE OF FEDERAL MORTGAGE SUBSIDY" WHEN (I/WE) SELL OR TRANSFER TITLE EVEN IF I/WE REALIZED NO GAIN ON THE SALE OR TRANSFER OR IF MY/OUR INCOME IS LESS THAN THE PRESCRIBED AMOUNT. The information (I/we) will need to compute the recapture amount will be provided to (me/us) at the time (my/our) Mortgage Loan and Down Payment Loan are made.

For additional information, please consult the following attachments to this Recapture Notification and Mortgagor's Affidavit. YOU SHOULD MAINTAIN THIS INFORMATION FOR YOUR RECORDS.

Attachment 1 - Determining Your Recapture Tax

Attachment 2 - Example of How to Compute the Recapture Amount

Attachment 3 - Sample Table

Attachment 4 - Recapture Worksheet



**PART II - GENERAL INFORMATION**

I, \_\_\_\_\_ and \_\_\_\_\_ as Purchaser(s),  
Mortgagor(s), or Titleholder(s) of a residence (the "Residence"), the Mortgage Loan for which will be provided by the  
Agency, do hereby represent and warrant as follows:

1. The information in the Mortgage Loan application and supporting documents is true, accurate and complete.

2. The Residence is located within the State of New York and is a **(Check One)**:

\_\_\_\_ (A) Existing one dwelling unit residence (including condominium or cooperative units, and manufactured homes permanently affixed to real property).

\_\_\_\_ (B) Newly constructed one dwelling unit residence (including new condominium or cooperative units, and manufactured homes permanently affixed to real property) completed as of the Mortgage Loan closing date to the extent that occupancy is permitted under local law.

\_\_\_\_ (C) 1) Newly constructed or existing two dwelling unit residence (i) located in a target area, (ii) completed as of the Mortgage Loan closing date to the extent occupancy is permitted under local law, and (iii) one unit of which will be used by (me/us) as (my/our) principal residence.

**OR**

2) Existing two dwelling unit residence not located in a target area where at least one unit has been occupied as a residence for at least the five (5) years immediately preceding the date hereof, provided, that any unit may have been vacant during such period if the unit was, to the best of (my/our) knowledge, from the time previously occupied as a residence, continuously held out for residential use and not occupied for any portion of such period in connection with a commercial or business use.

\_\_\_\_ (D) Existing (\_\_\_\_ 3, \_\_\_\_ 4) **(CHECK NUMBER OF UNITS)** dwelling unit residence where at least one unit has been occupied as a residence for at least the five (5) years immediately preceding the date hereof, provided, that any unit may have been vacant during such period if the unit was, to the best of (my/our) knowledge, from the time previously occupied as a residence, continuously held out for residential use and not occupied for any portion of such period in connection with a commercial or business use.

For purposes of the above, the term "existing residence" means units or dwellings which have been previously occupied or used, as a residence, and the term "newly constructed residence" means units or dwellings which have not been previously occupied or used as a residence.

2a. If (C) or (D) is checked, (I/we) have no present intention of increasing the number of units in the Residence beyond four dwelling units.

3. (I/We) intend to occupy the Residence as (my/our) principal and permanent place of residence within 60 days after the closing of the Mortgage Loan, and thereafter, and will not use the Residence as a recreational or seasonal residence. (I/We) understand that if for a continuous period of one year or more, the Residence is not the principal residence of at least *one* Mortgagor, no Mortgagor will be permitted to take a deduction for his/her interest expense with respect to the Mortgage Loan in determining (his/her) Federal income tax liability. Under the terms of the Technical and Miscellaneous Revenue Act of 1988 (I/we) may be permitted to take a deduction for interest expense with respect to the Mortgage Loan, in determining (my/our) Federal income tax liability which accrues on and after the date such Residence is again the principal residence of at least one of us. (I/We) understand that the United States Treasury Department (the "Treasury") is authorized to waive such penalty in certain instances where the application of the penalty would result in undue hardship and the failure to meet the principal residence requirement resulted from circumstances beyond the Mortgagor's control. (I/We) understand that seeking such a

waiver from the Treasury is (my/our) sole responsibility, that the Agency will not provide any assistance to (me/us) in seeking such a waiver, and that (I/we) should consider consulting (my/our) own attorneys when considering seeking such a waiver.

4. Other than as described in this Recapture Notification and Mortgagor's Affidavit, (I/we) have no present intent, understanding or agreement (i.e. other than a mere expectation or possibility) to lease, sell, assign or transfer any interest in the Residence to another party and have not entered into any agreement, understanding or other arrangement to lease, sell, assign or transfer the Residence.

5. (I/We) certify, for the entire term of the Mortgage Loan, that:

(A) (I/we) will not use, nor will any other person use, other than in connection with the rental of (    1,    2, or    3) unit (or units) (CHECK NUMBER OF RENTAL UNITS, IF APPLICABLE), more than 15 percent of the Residence for business or income producing purposes [as determined on Line 3 of IRS Form 8829 (or a successor form) of my Federal tax return(s)];

(B) (I/we) will not permit the Residence to be occupied by more families than is allowed under the applicable certificate of occupancy or its equivalent;

(C) (I/we) will not subdivide or attempt to subdivide the land containing the Residence and encumbered by the Mortgage Loan; and

(D) (I/we) will not construct another dwelling on the land containing the Residence that could be used as another residence.

6. (I/We) will not, nor will anyone else, use the Residence as investment property and will not receive any income from the Residence or the land with the exception of rental income incidental to a two-to-four unit residence.

7. All of the land being purchased with the Residence reasonably maintains the basic livability of the Residence and will not have more land appurtenant to it than as follows:

(A) If the Residence is located in an area where local zoning exists, the maximum amount of land is five (5) acres. If the property contains more than five (5) acres, but not more than 10 acres, (I/we) will provide SONYMA with a letter from the appropriate local municipal authority stating that the Residence is not subdividable and/or any additional lots are not buildable. If the property is more than five (5) acres, is subdividable, and/or any of the additional lots are buildable, (I/we) understand that prior to my/our Mortgage Loan closing, the additional lot(s) or land must be subdivided and that SONYMA will not finance any portion of the additional lot(s) or land not containing the dwelling.

(B) If the Residence is located in a rural area where local zoning does not exist, the maximum amount of land is five (5) acres. If the Residence contains more than five (5) acres, but not more than 10 acres, (I/we) will provide SONYMA with a letter from the local municipal authority stating that the Residence can only be used for residential purposes and not for business, commercial or agricultural uses. If the municipality cannot or will not provide such a letter, (I/we) understand that prior to (my/our) Mortgage Loan closing, the Residence must be subdivided or parceled so that SONYMA's Mortgage Loan will only encumber the parcel containing the dwelling and no more than five (5) acres of land.

No map which subdivides such land has been recorded and (I/we) have no intention of seeking any variance from applicable zoning, minimum lot size or set-back requirements for such purposes.

8. (I/We) will not use any part of the Mortgage Loan proceeds to acquire or replace an existing loan, except a construction loan, bridge loan, or similar temporary initial financing with an initial term not exceeding 24 months.

**9. Please check (A) or either (B1) or (B2) below:**

\_\_\_\_\_ (A) (I/We) have not had a present ownership interest in a principal residence, including a manufactured home permanently affixed to the land, at any time during the three-year period immediately prior to the closing of the Mortgage Loan.

**OR**

\_\_\_\_\_ (B1) (I/We) have had a present ownership interest in a principal residence, including a manufactured home permanently affixed to the land, at some time during the three-year period immediately prior to the closing of the Mortgage Loan, however the Residence which (I/we) (am/are) attempting to purchase is located in a target area.

**OR**

\_\_\_\_\_ (B2) (I/We) have had a present ownership interest in a principal residence, including a manufactured home permanently affixed to the land, at some time during the three-year period immediately prior to the closing of the Mortgage Loan, however at least one of the undersigned is a United States military veteran providing an executed Military Veteran's Eligibility Affidavit (SONYMA Form 243).

(I/we) understand that "present ownership interest" includes the following types of interest: a fee simple interest; a joint tenancy; a tenancy in common or tenancy by the entirety; the interest of a tenant-stockholder in a cooperative (including interest in a "Mitchell-Lama" or similar type limited equity or limited dividend cooperative project); a life estate; a land contract; or an interest in a trust established by (myself/ourselves) or some other person.

(I/We) further understand that a "present ownership interest" is not created by: a remainder interest; an ordinary lease, with or without an option to purchase; or a mere expectancy to inherit an interest in a principal residence; or the interest that a purchaser of a residence acquires on the execution of a purchase contract; or an interest in other than a principal residence during the previous three years, such as a vacation home, vacant land, commercial or industrial property; or prior ownership in the Residence.

**The following section 9(C) is not required to be completed if the Mortgagor(s)/Titleholder(s) is purchasing a Residence in a Target Area (except for all Achieving the Dream, Habitat for Humanity, and Home of Your Own Program Mortgagors) or if the Mortgagor(s) is an eligible United States military veteran:**

**(C) Select all appropriate responses:**

\_\_\_\_\_ Submitted with (my/our) loan application are true, correct, and complete copies of (my/our) signed Federal income tax returns Form 1040 and all Schedules or copies of IRS Tax Transcripts for one or more of the last three years as filed by mail or electronically with the Internal Revenue Service ("IRS"); or

\_\_\_\_\_ (I/We) filed Form 1040A or 1040 EZ for one or more of the last three years and have submitted with (my/our) loan application either a copy of such form that was filed with the IRS or a copy of IRS Tax Transcript indicating that such form was filed; or

\_\_\_\_\_ (I/We) hereby affirm that (I/we) did not file Federal income tax returns for the below years because such filing was not required under Federal law (**fill in appropriate names and years**):

<u>M/C/T*</u>	<u>Name(s)</u>	<u>Year(s)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

\*M = Mortgagor C= Co-Mortgagor T = Titleholder

10. (I/We) understand that as matter of Federal tax law the Mortgage Loan cannot be assumed unless all of the relevant restrictions of the Code are met. In addition, the Mortgage Loan cannot be assumed without the prior written consent of the Agency.

11. (I/We) understand that (my/our) Mortgage Loan application is subject to the approval of the Agency and its pool insurer.

**PART III - ACQUISITION COST OF THE RESIDENCE**

The acquisition cost of the land and dwelling to be acquired by the Purchaser(s) from the property seller(s) is computed as follows:

1. Amount paid, in cash or in kind, by the Purchaser(s) to or for the benefit of the property seller(s) or a related party to the property seller for the land and dwelling, (excluding usual and reasonable settlement and financing costs) and for completing unfinished portions of the dwelling (See Note below) . . . . .	\$ _____
(a) For cooperative units, the pro rata portion of the underlying mortgage allocable to the cooperative unit must be added to the cost of the shares of stock . . . . .	+\$ _____
2. Amount paid, in cash or in kind, by any other person to or for the benefit of the property seller(s) for the land and dwelling, and for completing unfinished portions of the dwelling . . . . .	+\$ _____
3. Amount paid, in cash or in kind, by the Purchaser(s) to persons other than the property seller for completing the dwelling including any amount paid for the land not owned for at least two (2) years and not included in 1 or 2 above . . . . .	+\$ _____
4. Amount paid for fixtures such as light fixtures, curtain rods and wall to wall carpeting unless the amount paid for fixtures is part of the cost of the land and dwelling included in 1 or 2 above . . . . .	+\$ _____
5. Amount paid not included in 1, 2, or 3 above for any purpose by the Purchaser(s) on behalf of the property seller(s) including property taxes in excess of the Purchaser(s) pro rata share and settlement and financing costs in excess of the usual and reasonable costs (See Note below) . . . . .	+\$ _____
6. The Fair Market Value of amounts, if any, included in 1 or 2 for items which are not fixtures including refrigerator, washer or dryer, etc. . . . .	-\$ [ _____ ]
7. Total Acquisition Cost . . . . .	\$ _____

*Note: The acquisition cost of a Residence **does not** include:*

*(1) usual and reasonable settlement and financing costs: "settlement costs" include titling and transfer costs, title insurance, survey fees and other similar costs, and "financing costs" include credit reference fees, legal fees, appraisal expenses, points which are paid by the Purchaser(s), or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid.*

(2) the imputed value of services performed by the Purchaser or members of his/her family (which include only the Purchaser's brothers and sisters (whether by whole or half-blood), spouse, ancestors and lineal descendants) in constructing or completing the Residence, or

(3) the cost of land which has been owned by the Purchaser(s) for at least two (2) years before the date on which the construction of the structure comprising the Residence begins.

(A) The Acquisition Cost of the Residence is set forth in line 7 above. (I/We) hereby certify that a true and correct copy of the purchase contract representing the entire transaction for the purchase of the Residence from the property seller, and all other contracts, agreements and understandings between (me/us) or anyone acting on (my/our) behalf, directly or indirectly, and the property seller or anyone acting on behalf of the property seller, directly or indirectly, or any other person, relating to the purchase of the Residence and any related real or personal property or fixtures, the furnishings of any services or the completion, addition or re-equipping of the Residence has been provided to the Mortgage Lender.

(B) Neither (I/we) nor anyone on (my/our) behalf has made any payment other than the amount indicated in line 7 above, except as stated in line 6 above, to the property seller or to any person on behalf of the property seller, nor have (I/we) canceled any debt of the property seller or any related person to the property seller.

(C) (I/We) have not entered into any agreement with the property seller, the developer, the contractor, or any other person to leave any portion of the Residence unfinished or omit or remove any fixtures or other architectural appointments from the Residence in order to reduce the Acquisition Cost.

(D) (I/We) certify that the information contained in this Part III is true and accurate and complete.

(E) (I/We) understand that if the Acquisition Cost of the Residence exceeds the Agency's current acquisition cost limits, the Agency shall not provide permanent financing for the Mortgage Loan.

**PART IV - INCOME ELIGIBILITY**

(I/We) certify that the information contained in this Part IV is true and accurate and complete. The financial information requested in this Part IV must be provided by the Mortgagor(s) on behalf of all Household Members who expect to occupy the Residence and whose incomes at the time of title closing derives from sources described in A below. For purposes of compliance under the Agency's income limits, "Household Members" include the Mortgagor, Mortgagor's spouse (whether or not a Mortgagor/titleholder), titleholders, and any person(s) signing the mortgage or note.

The information requested below must be provided in order to determine (my/our) eligibility under the income limits established for (my/our) region of the State. These limits have been established principally in response to requirements of the Code. The limits are used solely to determine (my/our) eligibility under the Code's income limit provisions and will not be used for mortgage loan underwriting purposes.

**Determination of the current Gross Income for all Household Members (as defined above) must be completed below. At application, Mortgagor must only complete the column entitled "At Loan Application". The column entitled "At Loan Closing" must be completed on the closing date.**

<b><u>A. Sources of Current Monthly Income</u></b>	<b><u>At Loan Application</u></b>	<b><u>At Loan Closing</u></b>
1. Gross Pay	\$ _____	\$ _____
2. Overtime, Part-time Pay and Temporary Employment	\$ _____	\$ _____
3. Bonuses, Commissions, and Tips	\$ _____	\$ _____
4. Dividends, Interest, Royalties & Trusts	\$ _____	\$ _____

5. Business Activities or Investments	\$ _____	\$ _____
6. Net Rental Income	\$ _____	\$ _____
7. Pension/Social Security Benefits	\$ _____	\$ _____
8. Veterans Administration Benefits	\$ _____	\$ _____
9. Unemployment Compensation	\$ _____	\$ _____
10. Sick Pay	\$ _____	\$ _____
11. Public Assistance/Section 8 HAP	\$ _____	\$ _____
12. Alimony, Child Support or Separate Maintenance Income	\$ _____	\$ _____
13. Any Other Income	\$ _____	\$ _____
14. <b>Total Monthly Gross Income</b>	\$ _____	\$ _____
Multiply by 12	_____ <u>x12</u>	_____ <u>x12</u>
<b><u>B. Total Annualized Gross Income</u></b>	\$ _____	\$ _____

**Note to Mortgagors: If Total Annualized Gross Income for all Household Members is above the applicable limit at EITHER time of loan application or at title closing, the Mortgagor(s) will not be eligible for either a SONYMA Mortgage Loan.**

**PART V - DISCLOSURE STATEMENT**

SONYMA requires information concerning personal finances, credit history and employment records from all Mortgage Loan applicants and co-applicants (collectively, the "Mortgagor"). In addition, SONYMA requires income information regarding certain members of the Mortgagor's household. This information is subject to outside verification, and may be reviewed by SONYMA, the Mortgage Lender, SONYMA's mortgage pool insurance company and the IRS.

In compliance with section 94(1) (d) of the New York State Public Officers Law, all personal information solicited and maintained by SONYMA is used to evaluate the individual's Mortgage Loan application or to provide information required by the IRS. Failure by the Mortgagor to submit requested information may result in rejection of the Mortgage Loan application.

SONYMA maintains records of the information submitted by all Mortgagors. In addition, SONYMA must report certain personal information regarding Mortgagors and their household(s) to the IRS. While SONYMA includes certain personal data in compiling general statistics of its mortgage loan portfolio for its own purposes, no name, number, symbol, mark or other identification is used to identify individual applicants unless personal information is required by law.

Each individual has the right to review personal information maintained by SONYMA, unless exempted by law. The official responsible for maintaining personal information at SONYMA is the Personal Privacy Compliance Officer, who is located in the Agency's offices at 641 Lexington Avenue, New York, NY 10022 and whose telephone number is (212) 688-4000. All requests to review personal information records should be addressed to the Personal Privacy Compliance Officer.

**PART VI - CERTIFICATION**

(I/We) have read the Recapture Notification as set forth in Part I hereof, and understand that (I/we) may be required to pay a recapture tax to the United States Treasury as a result of financing (my/our) home purchase with a Mortgage Loan from the Agency.

(I/We) understand that if (I/we) have made any material misstatements in the foregoing representations and the documentation provided by (me/us) with the Mortgage Loan application or have omitted to state any of the information requested this will be considered an event of default under the Mortgage Loan and the outstanding

principal balance of the Mortgage Loan together with accrued interest and if applicable, the Down Payment Loan, upon direction of the Agency, will become immediately due and payable.

**EXECUTION AT TIME OF LOAN APPLICATION**

\_\_\_\_\_  
Mortgagor/Titleholder

\_\_\_\_\_  
Mortgagor/Titleholder

\_\_\_\_\_  
Guarantor

**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_).ss:

COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public  
Commission expires:

**REAFFIRMATION AT TITLE CLOSING**  
(To be completed at Title Closing Only)

(I/We) as Purchaser(s) of the Residence indicated herein reviewed all of the foregoing representations and warranties made by (me/us) as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the title closing date).

(I/We) do hereby reaffirm all of the foregoing representations and warranties previously made.

\_\_\_\_\_  
Mortgagor/Titleholder

\_\_\_\_\_  
Mortgagor/Titleholder

\_\_\_\_\_  
Guarantor



**DETERMINING YOUR RECAPTURE TAX**

**(Note: The following is intended only to familiarize (me/us) with this requirement. (I/We) should obtain the applicable IRS forms and instructions or consult (my/our) tax advisor to actually compute (my/our) recapture tax.)**

1. To determine the recapture tax, first multiply the sum of (my/our) original loan amount, and any down payment assistance loan amount, which is \$\_\_\_\_\_ by 6.25%. This is \$\_\_\_\_\_ and is the "maximum recapture tax."
2. Next, determine if (I/we) are entitled to a "holding period adjustment." Multiply the appropriate percentage shown in Column 1 (holding period percentage) of Sample Table in Attachment 3, reflecting the year in which (I/we) sold (my/our) home times the dollar amount calculated in (1.) above.

This amount, \$\_\_\_\_\_, is (my/our) "adjusted recapture tax."

3. Now determine if (I/we) are entitled to a "low-income reduction" or are excluded from paying any recapture tax. Look under column 2 of the Sample Table in Attachment 3 to determine the Adjusted Qualifying Income reflecting (my/our) family size at the time of sale. If (my/our) modified adjusted gross income (adjusted gross income from IRS Form 1040 plus tax-exempt income less the gain realized by the sale of this house) is less than the Adjusted Qualifying Income, (I/we) are excluded from paying any recapture tax. If (my/our) modified adjusted gross income exceeds the Adjusted Qualifying Income by more than \$5,000, (I/we) are not entitled to a "low-income reduction". If (my/our) income is within \$5,000 of the chart amount, the difference between (my/our) income and the chart amount is divided by \$5,000, and the resulting percentage is multiplied by the amount calculated in (2.) above. I/We now have computed the recapture tax. I/We are liable to pay the lesser of this amount or one-half of the gain on the sale of (my/our) home.

Note: The Income Limits in Attachment 3 are hypothetical amounts for illustration purposes only. At or subsequent to closing, (I/we) will be given the actual limits applicable to (me/us).

**EXAMPLE OF HOW TO COMPUTE THE RECAPTURE AMOUNT**

J, a single individual, purchases a home with a \$55,000 mortgage loan, and an \$3,000 down payment assistance loan, provided by the State of New York Mortgage Agency. At the time of purchase, the applicable income limit for a single person is \$20,000. J marries S, and they have two children, E and M. They sell their home 6 years and 2 months later and realize a gain of \$12,000 on the sale of the home. In the year of sale, J and S's household income (adjusted gross income plus tax-exempt interest but not including any gain on the sale of this house) is \$32,000. Before adjustments, the maximum recapture amount would be \$3,625 ( $0.0625 \times \$58,000$ ).

However, because the home was held more than 5 years, the holding period adjustment reduces the recapture amount to \$2,175 (sale on or after the sixth anniversary of closing, but before the seventh anniversary of closing = 60% holding period percentage). The recapture amount is further reduced because J and S's household income (\$32,000) is \$3,822 less than the income eligibility limit of (\$30,822 plus \$5,000) or \$35,822.

The recapture amount is reduced by the income percentage which is the difference between J and S's household income (\$32,000) and the eligibility limit (\$30,822) divided by \$5,000. (\$32,000 is \$1,178 more than \$30,822 and \$1,178 divided by \$5,000 = 23.6%.  $\$2,175 \times 23.6\% = \$513.30$ ).

Since J and S realized a \$12,000 gain on the sale of their home, the 50% gain-on-sale limitation did not further reduce the \$513.30 recapture amount due. If the gain on sale had been \$200 instead of \$12,000, then the recapture amount would have been \$100, which is the lesser of the computed amount of \$513.30 or 50% of the gain on sale ( $\$200 \times 50\% = \$100$ ).

This example is modified from the Draft Report prepared by the United States General Accounting Office entitled "Home Ownership, Limiting Mortgage Assistance Provided to Owners with Rapid Income Growth" to reflect changes enacted by the Budget Reconciliation Act of 1990.

If \$20,000 was the applicable income limit for one-person household, \$23,000 would be the applicable 3-or-more person household limit ( $\$20,000 \times 115\%$ ). The \$23,000 amount is increased by 1.05 to the "nth" power, where "n" is the number of full years the home was owned, to \$30,822. ( $\$23,000 \times 1.05$  to the 6th power equals  $1.34 \times \$23,000 = \$30,822$ .)

**SAMPLE TABLE**

[Note: The incomes provided in Column 2 of this table are merely examples to assist (me/us) in understanding the recapture calculation described in Attachment 2. Actual Income Calculations will be provided at or subsequent to Closing].

Date that (I/we) sell (my/our) home	(Column 1) <b>Holding Period Percentage</b>	(Column 2) <b><u>Adjusted Qualifying Income</u></b>	
		Number of Family Members Living in Your Home <u>At The Time of Sale</u>	
		<u>2 or less</u>	<u>3 or more</u>
Before the first anniversary of closing (See note above)	20%	\$20,000	\$23,000
On or after the first anniversary of closing, but before the second anniversary of closing	40%	\$21,000	\$24,150
On or after the second anniversary of closing, but before the third anniversary of closing	60%	\$22,050	\$25,357
On or after the third anniversary of closing, but before the fourth anniversary of closing	80%	\$23,152	\$26,625
On or after the fourth anniversary of closing, but before the fifth anniversary of closing	100%	\$24,310	\$27,957
On or after the fifth anniversary of closing, but before the sixth anniversary of closing	80%	\$25,526	\$29,354
On or after the sixth anniversary of closing, but before the seventh anniversary of closing	60%	\$26,802	\$30,822
On or after the seventh anniversary of closing, but before the eighth anniversary of closing	40%	\$28,142	\$32,363
On or after the eighth anniversary of closing, but before the ninth anniversary of closing	20%	\$29,549	\$33,981

**RECAPTURE WORKSHEET**

- A. Calculate 50% of the gain on sale of the home.  
[Gain \$\_\_\_\_\_ x 50%] = \$\_\_\_\_\_.
- B. Home was sold or transferred during what year? \_\_\_\_ year  
Applicable % (See Attachment 3, Column 1) \_\_\_\_%.
- C. Sum of original mortgage loan amount and down payment assistance loan amount \$\_\_\_\_\_.
- D. Amount in C. x 6.25% (.0625) = \$\_\_\_\_\_ (Maximum Recapture Tax possible).
- E. [% shown in B.] x D. = \$\_\_\_\_\_.
- F. Maximum Federal income limit for (my/our) area, the year sold, and current family size (See Attachment 3, Column 2) = \$\_\_\_\_\_.
- G. Mortgagor(s) modified adjusted gross income for year in which house is sold.
- |  |         |
|--|---------|
| (adjusted gross income on Form 1040, 1040A, or 1040EZ) | \$_____ |
| (tax-exempt income) +                                  | \$_____ |
| (100% of gain on sale on home) -                       | \$_____ |
| (modified adjusted gross income) =                     | \$_____ |
- H. If F. is greater than or equal to the result in G., no recapture; stop here.
- I. If G. is greater than or equal to (F. + \$5,000), go to M.
- J. If G. is less than (F. + \$5,000), compute the difference between G. and F. here: \$\_\_\_\_\_.
- K. The amount in J. divided by \$5,000 = \_\_\_\_%.
- L. K. times E. = \$\_\_\_\_\_ (adjusted recapture tax). (Go to N.)
- M. The LESSER of (A.) or (E.) is the recapture amount owed  
\$\_\_\_\_\_.
- N. The LESSER of (A.) or (L.) is the recapture amount owed.  
\$\_\_\_\_\_.