NEW YORK CEMA LOANS -- FAQ

Question: What is a CEMA loan?
Answer: CEMA stands for "Consolidation Extension and Modification Agreement."

Question: What is the purpose of doing a CEMA?
Answer: To avoid paying part or all of the New York mortgage tax, usually on a refinance transaction, but sometimes on a purchase transaction.

Question: Are there any disadvantages to a CEMA?
Answer: In order to start the CEMA process, borrowers must sometimes pay an upfront fee to their existing lender. This fee may be non-refundable, even if you do not complete the refinance.

Question: When should a borrower try to do a CEMA?
Answer: Whenever the borrower can save a significant amount of money. That is, when the fees associated with a CEMA are outweighed by the mortgage tax savings.

Question: How can I determine how much money a borrower will save?
Answer: The net amount a borrower can save is based on three things:

1. Mortgage Tax Rate- Each county in New York State has its own rate and some depend on loan size. (For example, the NYC rate is 1.8% on loans less than $500,000 and 1.925% on loans greater than $500,000. In Westchester, Rockland and Ulster counties, the rate is 1.05%.) For a complete list of all county tax rates, click here.

2. Principal Unpaid Balance on Existing Loan- In other words, the amount on the mortgage being paid off-- not including interest. You don't need an exact amount in order to estimate your savings. A rough amount will do. In our examples, we refer to the principal unpaid balance as the "PUB."

3. Fees Borrower Will Incur In Obtaining The Assignment- The borrower's payoff bank will charge a fee for providing an assignment, which is required for a CEMA. Normally, this fee is less than $1,000.00. However some banks will not agree to provide an assignment under any circumstances, in which case the borrowers will not be able to do a CEMA.

Question: Can you give me a formula for calculating the tax savings with a CEMA loan?
Answer: There are two ways to do the math. The first method involves a four-step process. The second method is only two steps. Both will give the same result.

1. Net CEMA Savings in 4 Steps

Step 1: Calculate what the mortgage tax will be without a CEMA:
Mortgage tax = New loan amount times the tax rate (e.g. $150,000.00 x 1.05% = $1,575.00)

Step 2: Figure mortgage tax with CEMA:
Mortgage tax = New loan amount minus principal unpaid balance of old loan times the mort tax rate (e.g. 150,000.00 - 147552 = 2,448.00 x 1.05% = $25.70)

Step 3: Subtract Line 2 from Line 1 and that is your gross tax savings. (e.g. 1,575.00 - 25.70 = 1549.30)

Step 4: Subtract all CEMA fees (each banks sets its own fee) and recording charges incurred by the CEMA and that gives you the total savings from the CEMA. (e.g. 1549.30 - 750.00 = 799.30 Saved)

2. Net CEMA Savings in 2 Steps

Step 1: Take the PUB from payoff loan. Multiply that figure by the county tax rate.
Step 2: Subtract Bank and Recording Fees.

This shortcut works because the purpose of a CEMA is to give borrowers a credit for mortgage taxes paid but not "used" as represented by the PUB of a mortgage at the time of payoff. Imagine that you have a borrower who wants to take a loan for $250,000. Imagine further that the borrower's prior mortgage was recorded in the amount of $200,000 and that they paid the full tax on that mortgage. Now imagine that at the time they refinance, there is exactly 192,153.35 left on the mortgage as the PUB. A CEMA loan allows the borrowers to take an exemption in the amount of 192,153.35. So that's why the shortcut works, because the more direct way to derive the tax savings is with the PUB, which is sometimes referred to as the "old money."

Question: Can you give another example of CEMA savings? Is it really worth it?
Answer: Absolutely. Here's a good example of the kind of savings you can sometimes get with a CEMA loan:

Assume the loan amount is $300,000.00 and the PUB on the payoff is $274,535.50, so you will only need to record (and pay tax on) a gap mortgage in the amount on 25,464.50. Let's assume the property is in Queens County, so the mortgage tax without a CEMA would be $5,400.00 ($300,000 x 1.8 %). With a CEMA, the mortgage tax is only $*458*.36 (25,464.50 x 1.8%). Assuming your CEMA fees are $1,000, that means the total savings to would be $3,941.64.

Question: How does the process work exactly?
Answer: The mortgage tax is assessed at the time a mortgage is recorded. In most refinance transactions, the existing loan is paid in full. When the old lender gets their payoff money, they normally provide a satisfaction (discharge) of the mortgage. In New York, if you satisfy a loan upon payoff and then record a new mortgage for the new lender, you will incur the mortgage tax on the full amount of the new mortgage. However, if the existing lender is willing to assign their mortgage to the new lender, then you don't need to record a full, new mortgage. Instead, you only need to record a mortgage for the difference between the loan amount and the PUB which is usually a much smaller amount and the tax is therefore much less. So the key to the process is that the existing lender assigns their mortgage to the new lender instead of satisfying it. For that reason, CEMA loans have sometimes been referred to as "New York Assignments."

Question: Why does the process require extra time?
Answer: When the existing lender receives a CEMA request, they retrieve the borrowers servicing file which contains the original mortgage and note. Once they locate these documents, they send them to a local NY attorney of their choosing. At closing, that attorney comes to their office IN PERSON to pick up the payoff check and to drop off the following documents:

1. Original Assignment from the payoff bank to the new lender, which is to be recorded.
2. The Original Note, which will contain an Endorsement to the new lender.
3. The Original Mortgage.

(Sometimes the existing lender cannot locate the original note and/or mortgage. In that case, new lender may agree to accept a lost note affidavit and a certified copy of the original mortgage.)

Question: When should I start the process?
Answer: EARLY! Try to order your CEMA when the appraisal is ordered.

Question: How should I start the process?
Answer: Contact us.

Question: My current lender won't do a CEMA. Can I force them to do it?
Answer: No. Your lender is under no obligation to do a CEMA, but maybe we can help.

Question: What is old money and new money?
Answer: The "old money" is the PUB on the existing loan. The "new money" is the difference between the PUB and the new loan amount. This is sometimes called the "gap" amount.
The "old money" is secured by the existing mortgage which gets assigned to the new lender. The "new money" is secured by the gap mortgage which is recorded after the closing. Both mortgages are then combined (consolidated) to form a single lien through the CEMA.

Question: The Words "Consolidation Extension and Modification" refer to what exactly?
Answer: These three words are defined as follows:

Consolidation refers to the fact that two separate mortgages (Gap and Existing) are being Consolidated to form a single lien;

Extension refers to the fact that the existing note (which probably has less than 30 years remaining) will normally be extended to match the term of the new loan.

Modification refers to the fact that the terms of the old note and mortgage (the interest rate, e.g.) are being modified according to the terms of the new loan.

Question: What if the PUB is greater than new loan amount? Can I still do a CEMA?
Answer: Yes. If the PUB is greater than the new loan amount, the borrower will probably be bringing money to the closing table. In this case, there will be no gap note and no gap mortgage. There will be no mortgage tax due at all. This is called a "straight mod" or an "EMA" since there is no consolidation occurring due to the fact that there is only one mortgage instead of two.

Question: What is the lender's quarter point?
Answer: In addition to the borrower's mortgage taxes listed above, the bank is taxed .25 percent on any mortgage. The bank pays it through the title company. You may see it on a title bill, but it does not affect the borrower.

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