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New York City's Pied-à-Terre Tax

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CLE Program

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NEW YORK CITY'S PIED-À-TERRE TAX

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Law and guidance as of October 12, 2026

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- Property-tax reductions and planning
- NYC Tax Commission and judicial appeals
- Tax projections, exemptions and abatements

Course agenda

Topic	Minutes
Framework, coverage and calculation	10
Primary residence, ownership and exclusions	20
DOF notices, verification and evidence	10
Billing, enforcement and penalties	5
Administrative and judicial review	10
Current litigation and unresolved issues	5

Statutory framework

- Enacted May 28, 2026, beginning with FY 2026/27
- Tax Law Article 30-C and NYC Administrative Code Chapter 32
- DOF administers the surcharge under 19 RCNY Chapter 62
- Additional annual liability, with a statutory sunset of June 30, 2031

Covered properties

- Class 1 residential property, excluding vacant land
- Class 2 residential condominium dwelling units
- Class 2 co-op apartments
- Ordinary Class 2 rental buildings fall outside these categories

Phase One rates

Property	DOF market value	Rate
Class 1	$5M–$15M inclusive	0.80%
Class 1	Over $15M–$25M inclusive	1.05%
Class 1	Over $25M	1.30%
Co-op / condo	$1M–$3M inclusive	4.00%
Co-op / condo	Over $3M–$5M inclusive	5.25%
Co-op / condo	Over $5M	6.50%

FY 2026/27–2027/28. Statutory endpoints shown. DOF's web table differs at bracket boundaries.

Phase One valuation

- Class 1: DOF market value for the tax year
- Condos: DOF value under existing rental-based valuation rules
- Co-ops: building DOF value × unit shares ÷ total shares
- Combined apartments require careful review of the full residence

Annual surcharge examples

Property	DOF value	Annual surcharge
Co-op / condo	$1,200,000	$48,000
Co-op / condo	$4,000,000	$210,000
Co-op / condo	$6,000,000	$390,000
Class 1 home	$20,000,000	$210,000

The rate applies to the full market value. These are hypothetical examples.

Phase Two begins July 1, 2028

- A $5 million threshold applies across covered property types
- Co-op and condo values must consider comparable unit sales
- All covered types use 0.80%, 1.05% and 1.30% brackets
- Future DOF methodology will affect individual exposure

Annual surcharge cycle

Milestone	First year / next cycle
Taxable status date	January 5, 2026 / January 5, 2027
First-year final supplemental roll	December 31, 2026 under the rule
First surcharge payment	January 1, 2027
Next initial residency notices	By February 15, 2027 under the rule

Primary residence

- The relevant use is measured as of January 5
- Qualifying occupants include covered owners, family and tenants
- DOF weighs majority-of-days occupancy and documentary evidence
- An individual has only one primary residence

Individuals and immediate family

- One qualifying individual owner may establish residency
- Immediate family: spouse, child, sibling, parent, grandparent or grandchild
- The family list is exhaustive
- Another primary home in NYC does not protect this property

LLCs, corporations and partnerships

- A qualifying holder or group must own more than 50%
- Interests of qualifying individuals may be aggregated
- DOF requires the entity to hold the entire property or all unit shares
- Ownership documents and a majority-interest affidavit support the claim

Ownership structure examples

Structure	DOF ownership test
Resident owns 60% of property LLC	Majority threshold met
Resident owns 50%, other 50% is nonresident	Threshold not met by resident alone
Two resident members own 30% each	60% may be aggregated
Resident holds property through two LLCs	DOF rejects multi-tier look-through

Illustrations address the ownership test per DOF Rules. Actual residency still requires proof.

Trust ownership

- The beneficial owner or owners must be the sole beneficiaries
- Contingent or future interests do not count for this purpose
- DOF focuses on the qualifying beneficiaries' primary residence
- Review the trust instrument and trustee affidavit

Tenant and subtenant claims

- The occupant must be a natural person using the home as a primary residence
- The statute requires a bona fide arm's-length lease of at least one year
- The rule also provides a month-to-month documentation route
- Residency evidence and rental evidence address separate requirements

Property exclusions

- A required temporary or permanent CO has not yet issued
- An original sponsor's unit remains unsold under a required offering plan
- Deed conveyances and economic-interest transfers can end sponsor relief
- The exclusion must exist on the taxable status date

Death and medical absences

- Death: residency may continue for one year afterward
- Hospitalization and temporary nursing or rehabilitation stays may preserve residency
- Proof of the event and prior primary residence is required
- An estate does not qualify merely because the owner died

Purchases, renovations and mixed use

- A post–January 5 purchase does not reset the annual status date
- A plan to move in after renovation is not an adopted exclusion
- One qualifying dwelling can protect a covered Class 1 property
- Transaction documents should allocate surcharge exposure

Discussion examples

- A townhouse tenant uses one apartment as a primary residence
- A 50% LLC member lives in the condo full-time
- A buyer closes in June and moves in after a year of renovation

DOF identification and notices

- DOF makes an annual initial determination using available records
- Income-tax addresses and specified benefits inform screening
- The notice opens the opportunity to submit proof
- A supplemental-roll listing alone does not establish liability

Proof of primary residence

- Tax return showing the permanent home address
- DMV identification and other evidence tied to the status date
- Rule and website proof lists differ
- Documents should tell a consistent occupancy story

Supporting evidence by claim

Claim	Additional evidence
Immediate family	Relationship records or affidavits
Tenant	Lease + 1 rental document, or affidavits + 2
LLC / corporation / partnership	Governing documents + majority affidavit
Trust	Trust instrument + trustee affidavit

Filing periods and rule changes

- DOF’s posted first-year deadline: October 13, 2026
- The emergency rule supports extensions and in-person filing
- The permanent amendment remains a proposal
- The proposal would allow 60 days in later years

Determinations and the next year

- Retain the filing confirmation, evidence and decision
- A DOF denial starts a separate review deadline
- FY 2027/28 turns on January 5, 2027
- Prior approval does not guarantee every future year

Billing and cooperative collection

- First surcharge payment: January 1, 2027
- Property-tax abatements, credits and exemptions do not reduce it
- Co-op corporations receive the bill and collect from affected shareholders
- Unpaid surcharge, interest and penalties can create a property lien

Audits and penalties

- Residency certifications and documents are auditable for six years
- Material misinformation submitted negligently or in bad faith can trigger penalties
- False exclusion: 50% of the surcharge, plus reinstatement
- Undervaluation: 300% of the tax difference, capped at 50% of the surcharge

Corrections and refunds

- Clerical and description errors have a correction process
- Overpayments and duplicate payments may be refundable
- From FY 2027/28, the rule also incorporates market-value adjustment procedures
- Correction requests do not replace timely review filings

Administrative review routes

Issue	Route
Initial residency only	DOF proof / appeal process
Initial residency + market value	Direct TC107 election
Final DOF residency denial	TC107 appeal
Excessive or unlawful market value	TC107

Tax Commission deadlines

Claim	FY 2026/27 and FY 2027/28 deadline
Class 2 market value / combined appeal	March 1, 2027
Class 1 market value / combined appeal	March 15, 2027
Final DOF residency determination	Later of class deadline or 30 days from notice

The later residency deadline does not extend the market-value deadline.

TC107 filing essentials

- Separate application and evidence for each property or unit
- Original signature, personal knowledge and proper authority
- Application must arrive by the deadline, with a TC10 receipt
- Written review, with no personal surcharge hearing

Evidence for a valuation challenge

- Match the appraisal method to Phase One or Phase Two
- Class 1: support the property’s full value as of January 5
- Co-ops and condos: rental-based valuation for Phase One
- Co-ops: verify building value and the unit’s share fraction

Judicial review and preservation

- Article 7 reviews the Tax Commission's final determination
- A timely TC application is the prerequisite
- The NYC deadline is before October 25 of the review year
- Article 78 addresses other final agency action where appropriate

O’Brien: the implementation challenge

- September 29: court ordered the notices cancelled and roll removed
- Court required individualized determinations using available information
- The City appealed, and implementation continues during the appeal
- October 6: Second Department set an expedited briefing schedule

Litigation status as of October 12, 2026. Trial-court relief remains subject to appellate proceedings.

Ross: constitutional challenges

- Plaintiffs argue the surcharge is an ad valorem real-property tax
- They challenge its exclusion from the City’s constitutional tax limit
- Federal claims include Privileges and Immunities and dormant Commerce Clause
- Federal and state equal-protection claims also appear

Suffolk County, Index No. 628629/2026. Claims summarized from the complaint.

Friedman: additional constitutional theories

- Residency discrimination and the constitutional tax-limit challenge
- Due process, including retroactive application
- Contracts Clause concerns involving existing arrangements
- Alternative Home Rule challenge to enactment

Suffolk County, Index No. 628919/2026. Claims summarized from the complaint.

Unresolved implementation issues

- Notice procedures and the practical effect of appellate orders
- Inconsistent evidence guidance
- Trusts, layered ownership and changes around January 5
- Renovations and innocent purchasers
- Phase Two valuation and preservation of individual claims

Additional resources

- Tax Law Article 30-C and NYC Administrative Code Chapter 32
- 19 RCNY Chapter 62 and DOF's rulemaking notices
- DOF surcharge page and residency affidavit forms
- Tax Commission surcharge page, TC107 and instructions
- NYC Pied-à-Terre Tax Knowledge Center | Rosenberg & Estis, P.C.

DOF surcharge page Tax Commission surcharge page

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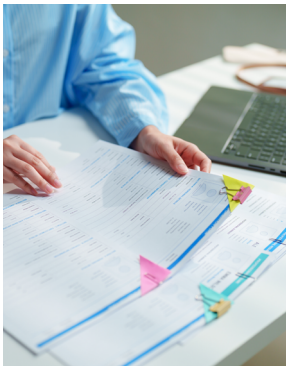
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FROM THE R&E BLOG



NYC FINALIZES PIED-À-TERRE TAX RULES—PROPERTY OWNERS SHOULD CHECK THE JULY 25 ASSESSMENT ROLL ADDENDUM

JUNE 15, 2026 | BY BENJAMIN M. WILLIAMS

On July 14, 2026, the New York City Department of Finance published its Final Rules implementing the City's new surcharge on certain high-value homes that do not serve as primary residences, commonly known as the pied-à-terre tax.

DOF moved quickly. The Final Rules were established less than one week after the July 9 public hearing and after 35 written comments were submitted. Rosenberg & Estis submitted detailed written comments on the Proposed Rules, and I testified at the public hearing regarding several of the legal and practical issues facing property owners, cooperative corporations and managing agents. [Link to written comments.] [Link to hearing video—remarks begin at 5:11.]

The Final Rules also took effect immediately. Rather than waiting the usual 30 days following publication, DOF invoked the New York City Charter's "substantial need" exception, reasoning that implementation must begin immediately because the surcharge applies beginning with the fiscal year that commenced July 1, 2026.

The Final Rules make several helpful changes concerning proof of primary residence, trusts, illness, death and appeals. At the same time, DOF retained many of the Proposed Rules' strictest positions, including its treatment of tiered entity ownership, renovations, successor sponsors, cooperative collection obligations and Phase One valuation.

See my prior blog post about the Proposed Rules: Pied-à-Terre Tax Trap: Bad Filings, Six-Year Audits, and 300% Penalties

JULY 25: THE FIRST CRITICAL DATE

The most immediate development is not the August notice or the January tax bill. It is the assessment roll addendum that DOF must publish by **July 25, 2026**.

The addendum must identify each property—and each potentially affected cooperative apartment—that "may be subject" to the surcharge. It must also state the property's or apartment's Phase One market value. Cooperative apartments may be identified by street address and apartment number even though they are not separate tax lots. DOF must publish a final version of the addendum on December 31, 2026.

The July 25 addendum will therefore be the first public indication of which homes DOF has placed within the potential pied-à-terre tax universe and the values DOF intends to use in calculating the surcharge. It is not the individualized primary-residence notice, but owners should not wait for that later notice before reviewing their status.

Owners, cooperative boards and managing agents should promptly determine:

- whether the property or apartment appears on the addendum;
- whether the address, apartment number, ownership information and cooperative share allocation are accurate;
- whether the stated Phase One market value exceeds the applicable threshold;
- whether the January 5 residency and ownership requirements were satisfied; and
- whether a residency or valuation challenge should be prepared.

For the first two years of the program, the Phase One threshold is generally a DOF market value of at least $5 million for a Class 1 home and at least $1 million for a condominium or cooperative apartment. Once the applicable threshold is met, the surcharge applies to the property's entire Phase One market value—not merely the amount above the threshold.

ENTITY OWNERS MAY AGGREGATE INTERESTS, BUT TIERED STRUCTURES STILL DO NOT WORK

The Final Rules clarify one important entity-ownership question: direct shareholders, partners or LLC members may aggregate their ownership interests to meet the statutory majority-interest requirement.

For example, if one LLC owns the entire apartment and two individuals who use the apartment as their primary residence each hold 30% of the LLC, their interests may be aggregated to establish a 60% majority interest. The Final Rules define a majority interest as more than 50% of a corporation's voting power or stock value, or more than 50% of an LLC's or partnership's capital or profits.

The aggregation clarification is helpful, but its reach is limited. The entity must itself hold the entire ownership interest in the property or all of the cooperative shares associated with the apartment. An individual cannot obtain covered-owner status through an entity that holds only a fractional interest in the property. Accordingly, if A LLC owns a 51% tenant-in-common interest and B LLC owns the remaining 49%, the natural-person owners of A LLC cannot establish primary residency through A LLC merely because they control the majority of the property.

DOF also expressly states that an individual cannot establish covered-owner status through a multi-tier business entity structure. Thus, if an individual owns LLC 1, LLC 1 owns LLC 2, and LLC 2 owns the apartment, the Final Rules do not permit a look-through from the apartment to the individual.

This distinction makes the precise ownership chain critical. Owners should review organizational charts, deeds, stock certificates, operating agreements and partnership agreements before assuming that an individual's use of the apartment as a primary residence is sufficient.

TRUST BENEFICIARY RULES ARE CLEARER

The Final Rules provide greater clarity for trust-owned properties.

The Proposed Rules referred to proof that an individual was the "sole beneficiary" of a trust, creating uncertainty where, for example, spouses or multiple family members were the only current beneficiaries. The Final Rules now confirm that multiple individuals may collectively be the sole beneficiaries of a trust.

The Final Rules also provide that contingent or future interests will not be considered when determining whether the current beneficiaries are the sole beneficiaries. This may prevent a remainder interest or other future interest from automatically disqualifying the current resident beneficiaries.

The trust agreement must nevertheless be carefully reviewed. The primary residents themselves must be the sole present beneficiaries. DOF's explanatory statement also makes clear that the immediate family member of a trust beneficiary does not independently qualify merely because the beneficiary would have qualified if personally residing in the home.

A HELPFUL CHANGE FOR INCOME TAX RETURNS AND AMENDED RETURNS

One of the more significant taxpayer-favorable changes concerns the income tax return that may be used to prove primary residence.

The Final Rules provide that an owner may submit the person's **most recently filed state or federal personal income tax return as of the date the pied-à-terre tax appeal is filed**. The Proposed Rules were less clear about the relevant filing date.

This means that a taxpayer who identifies a legitimate error or omission in a previously filed return may be able to file a truthful amended return now and have that return treated as the most recently filed return when the DOF appeal is submitted. Any amended return must, of course, be factually accurate and consistent with applicable state and federal income tax law. A return should not be amended merely to manufacture evidence for a pied-à-terre tax appeal.

DOF also states that it will use available income tax data in making its first-year primary-residence determinations. This makes consistency among income tax returns, deeds, cooperative records, driver's licenses, voter registrations and other residency documents particularly important.

The Final Rules also expressly recognize proof of occupancy during the 12 months preceding the taxable status date as potential "other proof" of primary residency when submitted with another qualifying document. A marriage certificate may now be used to prove a spousal relationship, and the rules create a documentary pathway for certain month-to-month tenant or subtenant arrangements using affidavits and supporting rental documents.

NEW RELIEF FOLLOWING DEATH, HOSPITALIZATION OR A TEMPORARY MEDICAL STAY

The Final Rules add relief for death and certain medical circumstances.

A covered owner, qualifying immediate family member, tenant or subtenant may be deemed to continue as the primary resident for one year immediately following that person's death. The owner or estate must prove the death and establish that the person used the home as a primary residence immediately beforehand.

Primary residence may also continue during a continuous hospitalization or a temporary stay in a nursing home or rehabilitation facility, again provided that the owner or estate proves the medical absence and the person's primary residency immediately before the absence.

This provision may be especially important for estates that retain an apartment while administering a decedent's affairs and for residents who are temporarily unable to occupy their homes because of illness.

JANUARY 5 CONTROLS—THERE IS NO "CONTEMPLATED USE" EXCEPTION

The Final Rules add a new § 62-08 confirming that value, primary-residence status, excluded-property status and other questions concerning the surcharge are determined as of the applicable taxable status date. For this surcharge, that date is generally January 5 preceding the fiscal year.

DOF specifically rejected requests for a "contemplated use" exception.

An owner who is renovating a home on January 5 and intends to move in shortly afterward generally cannot rely on that future occupancy to establish primary residence for the current surcharge year. Similarly, a purchaser who intends to make an apartment a primary residence, but has not done so by January 5, receives no general exclusion based solely on that intention.

The statutory exclusion for a property requiring a temporary or permanent certificate of occupancy that has not yet been issued remains available. But ordinary renovations that do not require an unissued certificate of occupancy do not receive the same treatment.

Owners planning renovations, purchases, leases or ownership restructurings must therefore complete the relevant steps before the taxable status date if they expect those facts to affect the next surcharge year.

INITIAL NOTICES WILL STATE THE TAX BUT NOT EXPLAIN DOF'S REASONING

For the first surcharge year, DOF must mail its initial primary-residence determinations no later than **August 30, 2026**.

The individualized notice will include the projected surcharge amount and information regarding the appeal. DOF also states that the notice will identify the appeal deadline. But DOF does not intend to explain why it determined that the property or apartment is not a primary residence.

That omission is significant. An owner may receive a substantial projected bill without knowing whether DOF relied on an income tax return, cooperative records, the co-op/condo abatement filing, ownership information, another reported address or the absence of data establishing primary residence.

An appeal to DOF generally must be filed within 30 days after the notice is transmitted—not 30 days after it is received. If DOF does not transmit a notice, the Final Rules permit an appeal within 30 days after the surcharge appears on the assessment roll.
Owners should begin gathering evidence before August 30. Potentially relevant materials include income tax returns, driver's licenses, voter registration records, utility and occupancy records, leases, rent-payment records, trust agreements, organizational documents and affidavits.

The Final Rules also simplify representation. A licensed attorney may establish authority through an affidavit, and an individual possessing the password included in the initial notice may submit the appeal by certifying that the individual is authorized to act for the owner.

OWNERS MUST CHOOSE THEIR ADMINISTRATIVE FORUM CAREFULLY

The statute provides different avenues for challenging primary residency and market value. In certain circumstances, an owner challenging both the property's value and DOF's initial residency determination may proceed before the New York City Tax Commission.

The Final Rules now make clear that an owner cannot pursue parallel primary-residence challenges before both DOF and the Tax Commission. If the owner files the applicable challenge with the Tax Commission, DOF will not consider the DOF appeal, and any DOF determination already issued will have no effect.

The selection of forum should therefore be made strategically, particularly where the owner disputes both residency and valuation. Filing in the wrong forum—or filing without the required accompanying valuation challenge—may affect the available remedies.

NO EXPANDED PROTECTION FOR SUCCESSOR SPONSORS OR HOLDERS OF UNSOLD UNITS

The statute excludes certain unsold condominium and cooperative units that remain with the person or entity that filed the offering plan. The Final Rules provide that a sale or transfer occurs upon conveyance of the condominium deed or transfer of an economic interest in the condominium or cooperative apartment.

DOF rejected requests to extend the exclusion to:
- successor sponsors that acquire a project and continue selling units;
- projects proceeding under an Attorney General no-action letter rather than a filed offering plan;
- affiliated entities receiving bulk transfers of unsold inventory;
- joint venture partners; and
- investors acquiring units for continued marketing and sale.

Accordingly, the exclusion remains tied to the original offering-plan filer. Once the original filer sells the unit or transfers the relevant economic interest, a successor holder generally cannot continue claiming the statutory unsold-unit exclusion.

DOF REJECTED A SALES-BASED PHASE ONE SAFE HARBOR

Rosenberg & Estis requested that an apartment with a Phase One market value of at least $1 million be excluded if reliable comparable-sales evidence established that its sales-based value was below $5 million. Alternatively, we requested that owners be permitted to show that the proper Phase One market value should not exceed 20% of the apartment's sales-based value.

DOF declined to adopt either approach, stating that the proposed methods conflicted with the Phase One valuation system established by the Legislature. Phase One values will therefore continue to be based on DOF's existing property-tax market values, including the statutory share-allocation methodology for cooperative apartments.

Owners may still challenge a Phase One market value as excessive or unlawful through the statutory Tax Commission process. But the Final Rules do not create an automatic exclusion merely because an apartment would sell for less than $5 million, nor do they establish a 20% sales-value cap.

This makes the July 25 value review especially important. An owner who waits until the surcharge is billed may lose valuable time to analyze the valuation and preserve the appropriate administrative challenge.

COOPERATIVE COLLECTION AND PURCHASER LIABILITY REMAIN UNRESOLVED

DOF also declined to adopt a rule giving cooperative corporations express authority to collect an unpaid unit-specific surcharge through remedies not already contained in their proprietary leases, bylaws or other governing documents.

The surcharge attributable to an apartment will be placed on the cooperative corporation's property-tax account, and the statute directs the cooperative to collect the amount from the affected tenant-stockholder. But DOF will not issue a rule superseding a cooperative's governing documents or creating additional collection remedies. Instead, DOF suggested that cooperative corporations consider amending their proprietary leases.

DOF similarly rejected an innocent-purchaser safe harbor. The surcharge, penalties and interest constitute a lien against the property, and DOF takes the position that purchasers and sellers should allocate the risk through their transaction documents. This issue should now be considered in contract due diligence, representations, indemnities, escrow arrangements and closing procedures for potentially covered homes.

OWNERS SHOULD BEGIN THEIR REVIEW NOW

July 25 is not an appeal deadline, but it is the starting point for the City's implementation of the pied-à-terre tax. Once the individualized August notice is transmitted, the DOF appeal period will generally be only 30 days—and the notice will state the projected tax without explaining the factual basis for DOF's determination.

Owners should review the July 25 assessment roll addendum promptly, confirm the Phase One market value, analyze the January 5 ownership and residency facts, and begin assembling supporting documents. Cooperative boards and managing agents should determine which apartments appear on the addendum, establish procedures for forwarding notices, and review their governing documents for the collection of unit-specific surcharges.

DOF retains the authority to audit primary-residence submissions for six years and to impose substantial penalties for materially inaccurate or misleading documentation. Any ownership restructuring, tax return amendment, lease, affidavit or residency submission must therefore reflect the actual facts and be carefully documented.

Rosenberg & Estis is advising property owners, cooperative and condominium boards, managing agents, sponsors and purchasers regarding pied-à-terre tax planning, primary-residence determinations, valuation challenges, and Tax Commission proceedings.

PIED-À-TERRE TAX TRAP: BAD FILINGS, SIX-YEAR AUDITS, AND 300% PENALTIES

JUNE 16, 2026 | BY BENJAMIN M. WILLIAMS

The surcharge is expensive. A careless filing can be worse.

For background on New York City's new pied-à-terre surcharge, see my prior article, NYC Pied-à-Terre Surcharge Is Law: 3 Months to Prepare for the 1st Non-Primary Residence Notice.

This article focuses on a narrower and more dangerous issue: what happens if an owner handles a pied-à-terre tax filing improperly. The rules discussed below are proposed rules and may change before final adoption, but the warning is already clear. The pied-à-terre tax is not just a new annual surcharge. It is also a new compliance regime.

The Department of Finance proposed rules would allow DOF to audit submissions, subpoena records and witnesses, impose penalties, conduct hearings, reinstate surcharges, and enforce unpaid amounts through liens and collection proceedings. Owners should not treat a pied-à-terre tax response as a simple form submission. A careless filing can create a record that follows the owner for years.

THE DANGEROUS WORD IS "MISLEADING"

The statute authorizes DOF to impose penalties where a certification or documentation submitted to DOF contains **inaccurate or misleading information** that is material to the surcharge determination, including a primary-residence determination, and was submitted **negligently or in bad faith**. The same penalty authority applies where a residential condominium unit has been divided into more than three units to avoid the surcharge and the division was made in bad faith.

That standard should get every owner's attention. It is not limited to forged documents. It is not limited to intentional fraud. It includes information that is "misleading." It also includes submissions made "negligently," not only in bad faith.

That means risk can arise from a rushed primary-residence certification, a lease that is not truly arm's length, tenant documents that are accepted too casually, trust or LLC materials that do not establish the required ownership relationship, or a valuation filing based on unsupported or incomplete facts.

THE PENALTY MENU

The statute authorizes penalties up to 50% of the surcharge. DOF's proposed rules then provide two main penalty formulas, plus a separate bad-faith condominium subdivision rule.

Potential violation	Penalty consequence under proposed rules
Misleading filing that would cause no surcharge to be imposed	Penalty equals 50% of the surcharge applicable to the property for that fiscal year, and DOF reinstates the surcharge.
Misleading valuation filing that would lower the surcharge	Penalty equals 300% of the surcharge difference caused by the lower valuation, capped at 50% of the surcharge applicable to the property.
Bad-faith division of a residential condominium unit into more than three units to avoid the surcharge	Penalty authority applies if the division was made in bad faith; the statutory cap is 50% of the surcharge.

These penalties are in addition to the underlying surcharge that may be reinstated or corrected. Interest, liens, collection proceedings, and legal costs can make the practical exposure even worse.

A $40,000 SURCHARGE CAN BECOME A $60,000 PROBLEM

Assume "Alex" owns a Manhattan condominium unit with a DOF phase one market value of exactly $1,000,000. The unit is not Alex's primary residence. At the first-tier surcharge rate of 4.0%, the annual pied-à-terre surcharge is $40,000.

Alex primarily lives in Florida but uses the New York apartment for work trips, holidays, and occasional weekends. After receiving DOF's non-primary-residence notice, Alex decides the surcharge is unfair because he uses the apartment regularly. Without getting legal advice, he files a primary-residence appeal and certifies that the condo is his primary residence.

To support the claim, Alex submits a utility bill, a recently changed mailing address, and an affidavit saying he considers the New York apartment to be home. But his income tax filings, driver's license, voter registration, travel pattern, and other official records show Florida as his actual primary residence. More importantly, he did not actually occupy the New York apartment as his primary residence as of the relevant taxable status date.

DOF audits the submission. DOF determines that Alex's certification and supporting documents were misleading because they suggested primary residence when the overall record showed a second home. DOF also determines that the misleading information was material because, if accepted, it would have caused DOF not to impose the surcharge.

Item	Amount
Reinstated pied-à-terre surcharge	$40,000
50% penalty	$20,000
Total before interest and collection costs	$60,000

The lesson is not that every unsuccessful primary-residence claim creates a penalty. The danger is filing a claim that DOF later views as inaccurate or misleading, material to the determination, and submitted negligently or in bad faith. There is a major difference between losing a good-faith dispute and creating a penalty case.

THE 300% VALUATION PENALTY

The proposed rules also include a separate penalty formula for misleading valuation submissions. If inaccurate or misleading documentation, if accepted, would result in a lower valuation than DOF otherwise would have assigned, the proposed penalty would equal 300% of the difference in surcharge caused by that lower valuation, capped at 50% of the surcharge applicable to the property.

This does not mean owners should be afraid to challenge an excessive market value. They should. The law expressly allows Tax Commission review of the surcharge market value on the grounds that the value is excessive or unlawful. But a valuation challenge should be supportable. The proposed 300% penalty is aimed at filings that cross the line from advocacy into inaccurate or misleading valuation material.

Potential danger areas include:

Potential valuation issue	Why it could become a penalty problem
Misstating unit size, layout, bedroom or bathroom count, terrace area, private outdoor space, parking rights, storage, floor level, views, or other valuable attributes	The understated facts could produce a lower valuation and a lower surcharge.
Using related-party sales, insider transfers, estate transfers, foreclosures, distress sales, bulk sales, partial-interest transfers, or sponsor transactions as comparable sales without disclosure	The comparison may be misleading if the sale was not an arm's-length market transaction.
Cherry-picking weak sales while omitting clearly superior, more recent, or more comparable sales	Selective evidence can create a false picture of market value.
Failing to disclose a recent arm's-length purchase or listing of the subject property	A recent sale or listing may be highly relevant, even if not always conclusive.
Submitting a broker opinion or appraisal based on incorrect facts supplied by the owner	The owner may still have exposure if the report depends on false or misleading assumptions.
Claiming serious physical defects, construction issues, building litigation, legal-use restrictions, or other impairments without current support	Condition and legal-use claims should be documented, current, and accurate.
For co-ops, misstating the unit's shares, the total share denominator, or the apartment allocation	A wrong numerator or denominator can directly affect the imputed value of the apartment.
Treating physically combined or adjacent apartments as unrelated smaller units without explaining the actual facts	The combined use, layout, and marketability may matter.

For phase two, using inappropriate condo or co-op sales comparables	The law moves to a sales-comparison concept for phase two, making comp selection and disclosure especially important.
Using stale, incomplete, or one-sided income, expense, commercial lease, or allocation information where building-level data affects a co-op valuation	Incomplete building data can distort the value attributed to the surcharge unit.

The most dangerous cases may be the ones where the requested valuation reduction looks modest. Assume the correct surcharge is $56,000. The owner submits misleading valuation materials that, if accepted, would reduce the surcharge to $48,000. The difference is $8,000. Under the proposed rule, the penalty would be 300% of that $8,000 difference, or $24,000, so long as that amount does not exceed 50% of the applicable surcharge.

That means an attempted $8,000 reduction can become a $24,000 penalty problem.

LEASES CAN BE DANGEROUS

A leased property may qualify as a primary residence if the lessee or qualifying sublessee is a natural person occupying the property under a bona fide lease negotiated in an arm's-length transaction with a term of at least one year. The proposed rules define an arm's-length transaction as a lease or sublease entered into in good faith, for valuable consideration that reflects fair market rental value, between informed and willing parties, where the circumstances do not indicate a reasonable possibility that the lease was entered into to avoid the surcharge.

That language matters. A lease is not magic.

A lease to a friend, relative, employee, business associate, related entity, family member, or insider may be questioned. A below-market lease may be questioned. A lease created after a DOF notice may be questioned. A lease that exists on paper but is not supported by rent payments, utility bills, renter's insurance, and actual occupancy may create more problems than it solves.

Owners relying on a tenant's primary residence should consider having their attorney or representative review the rent against market rental comparables. The goal is not to prove the highest possible rent. The goal is to confirm that the actual rent appears to reflect fair market rental value, or to identify and address the issue before the lease is submitted to DOF.

That review may include comparable rentals in the same building, comparable units in nearby buildings, unit size and condition, floor level, views, amenities, concessions, furniture, lease term, and any relationship between the parties. If the rent is materially below market, the owner should get advice before relying on the lease as an arm's-length lease for pied-à-terre tax purposes.

WHAT IF THE TENANT LIES?

This is one of the unresolved risks.

The proposed rules allow a primary-residence appeal to rely on proof that an individual is a lessee or sublessee, including an unexpired lease or sublease entered into through an arm's-length transaction, plus evidence such as a utility bill, renter's insurance policy, or proof of rent payment. The same rules allow DOF to impose a penalty on an owner where inaccurate or misleading documentation submitted in connection with the surcharge was material and was submitted negligently or in bad faith.

But what happens if the tenant gives the owner false documents? What if the tenant signs a lease, gives the owner a utility bill and voter record, tells the owner the apartment is the tenant's primary residence, and then it turns out the tenant actually lives elsewhere? The rules do not clearly answer that question.

As drafted, the practical enforcement target appears to be the owner, because the proposed rules provide for a notice of penalty to be transmitted to the owner of the covered property. That does not necessarily mean the owner should be penalized for every tenant lie. The penalty standard still requires inaccurate or misleading material information submitted negligently or in bad faith. An owner who reasonably relied on facially credible tenant documents after appropriate diligence should have a very different argument from an owner who knowingly submitted questionable documents, ignored obvious red flags, or arranged a sham lease to avoid the surcharge.

Still, the risk is real. Owners should not blindly accept tenant documents. They should build a reasonable file before submitting a tenant-based primary-residence claim.

A careful lease package should include tenant representations that the apartment will be used as the tenant's primary residence, that documents supplied to the owner and DOF are true and complete, that the tenant will notify the owner of any change in primary residence, and that the tenant will cooperate with any DOF audit. The lease should also consider an indemnity for surcharge, penalty, interest, legal fees, and collection costs arising from the tenant's false statements, false documents, or failure to use the apartment as a primary residence.

That contractual protection does not bind DOF. It also may be only as good as the tenant's ability to pay. But it may give the owner a practical remedy and, just as importantly, help show that the owner did not act negligently.

PRIMARY-RESIDENCE PROOF MUST BE CONSISTENT

DOF's proposed rules identify proof such as a state or federal personal income tax return listing the property as the person's permanent home address, or at least two acceptable documents showing residency on or before the taxable status date, including DMV identification, voter identification, or other proof acceptable to DOF.

This creates obvious traps. A New York utility bill may not be enough if tax returns, driver's licenses, voter records, and other official documents point elsewhere. A recently changed address may raise more questions than it answers. A person who uses an apartment frequently may still not be using it as a primary residence. A family office or assistant may not appreciate the legal significance of submitting inconsistent documents.

Owners should review the entire residency picture before anything is filed.

TRUSTS, LLCS, AND CORPORATIONS NEED SPECIAL CARE

Many high-value homes, condos, and co-op apartments are held through trusts, LLCs, corporations, partnerships, trustees, or other non-natural-person structures. That does not automatically solve the primary-residence issue. In many cases, it makes the issue more complicated.

DOF's proposed rules require additional proof where the owner relies on an individual's relationship to an entity or trust. For LLCs, partnerships, and corporations, the proposed rules call for the operating agreement, partnership agreement, or articles of incorporation, plus an affidavit from an officer showing the individual has a majority interest. For trusts, the proposed rules call for a copy of the trust agreement showing that the individual is the sole beneficiary, plus an affidavit from a trustee.

Those documents should not be submitted casually. They may contain sensitive estate planning, tax, ownership, and family information. They may also reveal that the ownership structure does not actually support the claimed primary-residence position.

Confidentiality concerns are real. But so is the burden of proof. Owners who want to claim primary residence through a trust or entity should have counsel review the governing documents before anything is sent to DOF, a managing agent, or the Tax Commission.

MISSING DEADLINES CAN CLOSE DOORS

The proposed rules require an owner to appeal an initial primary-residence determination within 30 days after the notice is transmitted. The appeal must be filed through DOF's electronic portal and must include the required certification and proof. If the owner fails to appeal or fails to provide proof, the initial determination becomes final and generally cannot be challenged under the surcharge review statute unless the owner also preserved the issue through the Tax Commission process in the required manner.

This is a procedural trap. Owners should not wait until the surcharge appears on a bill. They should not assume that a managing agent, accountant, broker, or family office has preserved their rights. They should not assume that a later explanation will fix a missed deadline.

The DOF process, Tax Commission process, and potential Article 7 review need to be coordinated carefully.

TAX COMMISSION FILINGS ARE LEGAL FILINGS, NOT INFORMAL LETTERS

The pied-à-terre tax creates a Tax Commission review process for market value and, in some circumstances, primary-residence determinations. A surcharge-specific Tax Commission filing is not necessarily the same thing as an ordinary property tax protest.

The statute allows an owner to challenge an initial DOF determination that the property is not a primary residence if the owner also challenges market value at the same time. The application must be verified by a person with personal knowledge, must state the grounds for review, and may require a power of attorney and other documentation if signed by a representative.

A defective Tax Commission filing can be costly. It may fail to preserve the right issue. It may omit a necessary valuation challenge. It may be inconsistent with the DOF primary-residence appeal. It may be unsupported by documents. It may create a record that hurts the owner later.

THE SIX-YEAR AUDIT WINDOW

DOF's proposed rules would allow the commissioner to audit the amount of surcharge owed, including determinations relating to primary residence and any certification or documentation submitted to DOF. An audit of primary-residence certification or documentation must be conducted within six years of submission. DOF may also subpoena witnesses and require production of books, papers, and documents.

That is the practical warning: do not submit anything to DOF that the owner cannot defend years later.

INFORMATION SHARING CAN BROADEN THE PROBLEM

The statute also allows information sharing between New York City and the New York State Department of Taxation and Finance for purposes of implementing the surcharge. City records used or considered in determining primary residence may be shared with State tax authorities, and State tax records and investigation materials may be shared with the City for surcharge purposes.

That does not mean every pied-à-terre tax issue becomes a personal income tax audit. But it does mean owners should not take one position for the surcharge without considering what has been said elsewhere, including on income tax returns and other official records.

PENALTY HEARINGS ARE REAL PROCEEDINGS

If DOF issues a notice of penalty, the proposed rules allow the owner to request a hearing by filing a petition within 30 days. Failure to file within that period results in imposition of the penalty.

The hearing may be handled by DOF or delegated to OATH. The hearing officer may require production of documents, administer oaths, receive evidence, question parties or witnesses, and create a record. The parties may call witnesses, introduce exhibits, and cross-examine opposing witnesses. The commissioner's final determination is subject to Article 78 review.

By the time there is a penalty hearing, the issue is no longer only whether the property was a primary residence or whether the value was too high. The issue may be whether the owner submitted inaccurate or misleading information, whether that information was material, and whether the filing was negligent or made in bad faith. That is not the time to begin organizing the facts.

NONPAYMENT CAN BECOME A LIEN AND COLLECTION PROBLEM

The statute treats the surcharge much like a real property tax for enforcement purposes. The surcharge, penalties, and interest may continue as a lien on the covered property, and the lien may be sold, enforced, or foreclosed. The statute also authorizes Corporation Counsel to bring an action to enforce payment and authorizes the commissioner to issue a warrant directing the City Sheriff to levy upon and sell real and personal property of the owner or cooperative corporation.

For co-ops, the surcharge is added to the cooperative property's statement of account, and the cooperative corporation must collect the surcharge from the tenant-stockholder whose unit is subject to it. That means a shareholder's surcharge issue can become a building billing issue, a collection issue, and a governance issue.

THE POST-SALE PROBLEM: CAN A BUYER INHERIT A SELLER'S BAD FILING?

The six-year audit rule creates a serious transaction issue. Suppose a seller claims primary residence, avoids the surcharge, sells the property two years later, and then DOF audits the seller's submission. DOF determines that the seller's certification was misleading and imposes the reinstated surcharge, interest, and a penalty. Who pays?

The statute and proposed rules do not answer that as clearly as they should. The statute authorizes DOF to promulgate rules addressing a change in ownership, but the proposed rules do not appear to provide a comprehensive post-sale audit and liability framework. The statute also provides that the surcharge, penalties, and interest may continue as a lien on the covered property, while the recovery provision authorizes actions and warrants against the owner or cooperative corporation.

A purchaser should not be responsible for a seller's negligent or bad-faith certification merely because DOF completes its audit after closing. But the statute and rules should say that expressly. Until DOF clarifies the issue, buyers of high-value New York City homes, condominium units, and co-op apartments should treat pied-à-terre tax exposure as a due diligence issue.

A purchase agreement cannot bind DOF or prevent the City from asserting whatever lien or enforcement rights the statute allows. But a buyer can allocate the risk contractually with the seller. The better approach is generally not merely a limitation on liability. A buyer typically wants seller representations, an indemnity, a survival period, and possibly an escrow or holdback for pre-closing pied-à-terre tax exposure.

Depending on the facts, the seller should be required to represent whether any pied-à-terre tax notices, primary-residence claims, Tax Commission filings, DOF appeals, audits, subpoenas, penalty notices, unpaid surcharges, or related communications exist. The seller should indemnify the buyer for any surcharge, penalty, interest, lien, legal fee, or collection cost arising from pre-closing periods or from any certification, document, lease, valuation submission, or appeal filed by or on behalf of the seller.

Title review alone may not be enough. The problem may not appear as a lien until after DOF audits and assesses the issue.

WHAT OWNERS SHOULD NOT DO

- Do not certify that a property is a primary residence simply because the owner uses it often.
- Do not rely on a tenant lease unless the lease is bona fide, arm's length, supported by rent payments, supported by occupancy evidence, and at a rent that appears to reflect fair market rental value.
- Do not submit tenant documents without checking for obvious inconsistencies.
- Do not submit trust agreements, operating agreements, affidavits, or ownership documents without first understanding whether those documents help or hurt the claim.

- Do not make a New York City primary-residence claim without checking whether income tax filings, driver's licenses, voter records, utility bills, insurance records, and other official documents are consistent.
- Do not file a valuation challenge based on unsupported assumptions, incorrect unit data, non-comparable sales, selective facts, or undisclosed relationships.
- Do not ignore Tax Commission strategy while pursuing a DOF primary-residence appeal.
- Do not assume that a co-op managing agent, accountant, broker, family office, trustee, or property manager has preserved the owner's rights.
- Do not stretch the facts. The surcharge may be expensive, but a bad filing can be worse.

THE SAFEST APPROACH: BUILD THE RECORD BEFORE FILING

The right response depends on the facts. Some owners will have strong primary-residence claims. Some will have strong valuation claims. Some will need to pay the surcharge. Some will need to preserve DOF and Tax Commission remedies while the facts are reviewed.

Before submitting anything, owners should consider retaining legal counsel to evaluate the ownership structure, residency facts, documentary proof, tax-return consistency, lease support, rent comparables, valuation issues, DOF appeal options, Tax Commission strategy, and potential Article 7 rights.

Counsel can also help avoid unnecessary disclosures, identify harmful inconsistencies before they become part of the record, and determine whether a claim is legally supportable.

The pied-à-terre tax is new. DOF's enforcement tools are not. When a filing can be audited for six years, when DOF can subpoena records and witnesses, when misleading valuation submissions can trigger a 300% difference penalty, and when unpaid amounts may become liens and collection proceedings, this is not the tax to wing.

NYC PIED-À-TERRE SURCHARGE IS LAW: 3 MONTHS TO PREPARE FOR THE 1ST NON-PRIMARY RESIDENCE NOTICE

JUNE 1, 2026 | BY BENJAMIN M. WILLIAMS

Governor Kathy Hochul signed A10009C into law on May 28, 2026. Part HH of the budget bill creates a new annual New York City surcharge on certain high value residential properties that do not serve as a primary residence.

This is commonly being called the pied-à-terre tax. Technically, the law calls it a surcharge on property that does not serve as a primary residence. It is not a transfer tax imposed when a property is sold. It is an annual charge that will be imposed in addition to ordinary New York City real property taxes.

The surcharge applies beginning with the New York City tax year that starts on July 1, 2026, and the law expires after five years on June 30, 2031, unless extended. For the first year, the first payment is due January 1, 2027.

The most important practical point: a property can be above the value threshold and still avoid the surcharge if it is a primary residence. But owners should expect to prove it to the Department of Finance.

WHICH PROPERTIES ARE COVERED?

The law potentially applies to three categories of residential property in New York City:

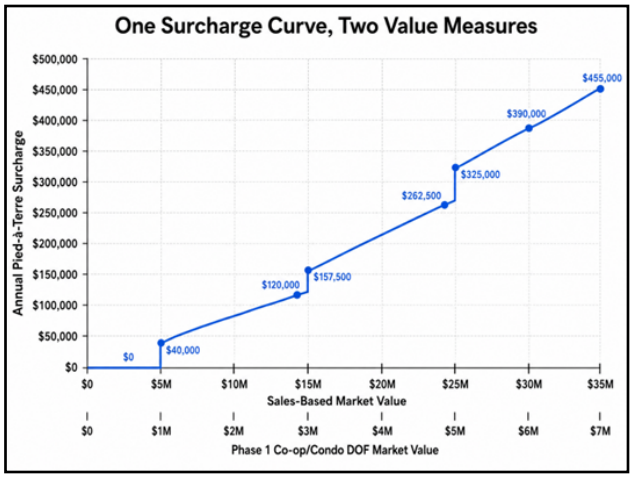
Property Type	Tax Class	Potentially covered?
One- to three-family homes, et. al	1	Yes, and mixed use properties too. But bungalow colonies & vacant land are excluded.
Residential condominium dwelling units	2	Yes
Residential cooperative dwelling units	2	Yes, through special co-op rules

The law contains exclusions. The certificate of occupancy exclusion is aimed at buildings under construction: a tax class 1 or tax class 2 property is excluded if a temporary or permanent certificate of occupancy is required and has not yet been issued. The law also excludes unsold sponsor condominium and cooperative units, or units where the economic interest in the unit has not yet been transferred by the offering-plan filer. Not subject to the law: commercial properties, hotels, rental apartment buildings.

Mixed-use tax class 1 properties may be a problem area. The law applies to tax class 1 property, other than vacant land, but it does not fully explain how the surcharge should be applied where a tax class 1 property has both residential and commercial components. DOF rulemaking may help clarify how those properties will be handled.

THE LAW HAS TWO PHASES

The first two tax years use current DOF-style property tax values. Later years use a different approach for condos and co-ops. For tax class 1 homes, the two phases are the same.



PHASE ONE: TAX YEARS 2026/27 AND 2027/28

For tax years beginning July 1, 2026 and July 1, 2027, the law uses "phase one market value." For tax class 1 homes and tax class 2 residential condos, that means the DOF market value for the property. For a co-op apartment, the law imputes a value to the apartment based on the DOF market value of the co-op property and the apartment's share allocation.

This phase-one structure is especially important for co-ops and condos. In the first two years, the condo and co-op threshold is $1 million of DOF phase-one market value, not $5 million of true "real world" market value.

Property type	Phase-one market value	Surcharge rate
Tax class 1	$5 million to $15 million	0.8%
Tax class 1	Over $15 million to $25 million	1.05%
Tax class 1	Over $25 million	1.3%
Condo or co-op unit	$1 million to $3 million	4.0%
Condo or co-op unit	Over $3 million to $5 million	5.25%
Condo or co-op unit	Over $5 million	6.5%

PHASE TWO: TAX YEARS 2028/29 THROUGH 2030/31

Beginning with tax years on and after July 1, 2028, the law switches to "phase two market value." For tax class 1 property, DOF continues to use the DOF market value for the property. For condos and co-ops, however, the law changes the valuation approach.

Starting with the January 2028 assessment roll, DOF must publish sales-based market values for condo and co-op apartments for purposes of this surcharge. DOF will need to consider what the apartment would actually sell for, or what the apartment is really worth, rather than relying on the current rental-income-based co-op/condo valuation system used for ordinary property taxes.

In phase two, the threshold becomes $5 million for all covered property types, including condos and co-ops. The rates are 0.8%, 1.05%, and 1.3%, depending on phase-two market value.

WHY THE DOF VALUE MAY NOT MEAN WHAT OWNERS THINK IT MEANS

For tax class 1 homes, DOF's market value is easier for many owners to evaluate because it's already sales-based. Owners often have a sense of what their one-, two-, or three-family home would sell for. If they bought their home recently, their purchase price could be an indicator of value. If their neighbors' homes are comparable and have sold recently, those sales prices could be indicators of value.

For condos and co-ops, the analysis is different. DOF currently values tax class 2 co-ops and condos as if they were income-producing rental properties. That means the phase-one condo and co-op values are tied to estimated rents, expenses, capitalization rates, and income-based valuation methods, not the apartment's hypothetical sales price.

DOF has already determined the final 2026/27 assessment market values that will be used for the first year of the surcharge. DOF published the FY2027 final assessment data on its website on May 25, 2026. Condo owners and tax class 1 owners should review their 2026/27 final DOF market values now, especially where the property is clearly not a primary residence.

DOF will issue the next tentative assessment roll on or about January 15, 2027, for tax year 2027/28 which begins July 1, 2027. For tax class 2 properties, including most condos and co-ops, the regular Tax Commission protest deadline is generally March 1. For tax class 1 properties, the regular Tax Commission deadline is generally March 15.

SAMPLE SURCHARGE AMOUNTS

The law applies the applicable rate to the full surcharge market value, rather than only to the amount over the threshold. If that reading is correct for the 2nd and 3rd tiers, the annual surcharge can be significant.

Tax class 1 DOF market value	Phase-one rate	Approximate annual surcharge
$5,000,000	0.8%	$40,000
$10,000,000	0.8%	$80,000
$20,000,000	1.05%	$210,000
$30,000,000	1.3%	$390,000

Condo/co-op phase-one market value	Phase-one rate	Approximate annual surcharge
$1,000,000	4.0%	$40,000
$2,000,000	4.0%	$80,000
$4,000,000	5.25%	$210,000
$6,000,000	6.5%	$390,000

These examples assume the property is not a primary residence and no exclusion applies.

WHAT OUR INITIAL DOF DATA REVIEW SUGGESTS

Our initial review of DOF final assessment data suggests that the potential surcharge base is concentrated among a relatively small number of high-value properties and buildings. These figures assume that every property above the threshold is not a primary residence. Actual liability will be lower because some properties will be primary residences, some may qualify for an exclusion, and some owners may challenge the value or the primary-residence determination.

RESIDENTIAL CONDO LOTS

Metric	Initial finding
Tax class 2 individual residential condo lots in NYC	Approximately 231,000
Condo lots with DOF market value of at least $1 million	Approximately 11,800
Share of individual residential condo lots above $1 million	5.1%
Total potential phase-one surcharge if all are non-primary residences	$818 million
Condo properties containing those 11,800 units	Approximately 1,500
Top 20% of those condo properties	300 properties: $565 million, or 69% of potential condo surcharge
Top 20% of those condo units	2,360 units: $321 million, or 39% of potential condo surcharge

In the top 100 condo units by potential surcharge exposure, 73 appear to be owned by a non-natural-person record owner, such as an LLC, corporation, trust, or trustee, based on the DOF owner-name field. Twenty-five appear to be directly owned by natural persons. The remaining two did not clearly fit either category from the DOF owner-name field. Record ownership is not the same thing as beneficial ownership or primary residence status, but it does show why entity ownership and proof of primary residence will be important issues.

TAX CLASS 1 PROPERTIES

Metric	Initial finding
Tax class 1 properties reviewed	Excluding vacant land and bungalow colonies
Tax class 1 properties with DOF market value of at least $5 million	Approximately 6,800
Total DOF market value of those properties	Approximately $60 billion
Geographic concentration by market value	62% Manhattan; 36% Brooklyn
Total potential phase-one surcharge if all are non-primary residences	$537 million
Geographic concentration by potential surcharge	66% Manhattan; 32% Brooklyn
Area concentration	Approximately half of all surcharge will come from the Upper East Side and Greenwich Village/SoHo areas
Top 20% of properties	1,360 properties: $249 million, or 46% of potential tax class 1 surcharge

PRIMARY RESIDENCE WILL BE THE CENTRAL ISSUE

The surcharge applies only if the property is not a primary residence. Under the law, primary residence is tested as of the taxable status date immediately preceding the fiscal year in which the surcharge is imposed. The Tax Law portion of the statute defines that taxable status date as January 5. The NYC fiscal year runs July 1 to June 30.

For tax year 2026/27, the relevant date is January 5, 2026. For tax year 2027/28, the relevant date is January 5, 2027.

A property may qualify as a primary residence if it is used as the primary residence of one or more covered owners, or an immediate family member of one or more covered owners, provided the covered owners are natural persons. Immediate family member means spouse, child, sibling, parent, grandparent, or grandchild.

A property may also qualify if it is used as the primary residence of a natural-person tenant or qualifying subtenant occupying under a bona fide, arm's-length lease with a term of at least one year.

Properties owned by LLCs, corporations, partnerships, and trusts require careful review. Entity ownership does not automatically mean the surcharge applies. But an entity itself cannot live in a property, and the law requires the relevant covered owner whose residence is being relied upon to be a natural person.

Owners should be careful before claiming that a New York City property is their primary residence. That position may have New York State and New York City personal income tax consequences.

DOF NOTICES AND KEY DATES

DOF must make an annual initial determination that threshold-value covered properties are not primary residences, based on information available to DOF and factors that DOF may specify by rule. The law specifically allows DOF to consider whether the property was occupied for a majority of days during a calendar year.

For the first year, DOF must provide the initial non-primary-residence notice no later than August 30, 2026. The notice must give the owner an opportunity to submit proof of primary residence. DOF may require certifications and documentation, including tax-return address evidence, STAR evidence, proof of tenant occupancy, or proof that an immediate family member uses the property as a primary residence.

The first surcharge payment for tax year 2026/27 is due January 1, 2027, the same date as the second semiannual installment of New York City real property taxes.

Dates (estimated)	What happens
May 25, 2026	DOF published FY2027 final assessment data; owners can review final 2026/27 DOF market values.
May 28, 2026	Governor signed A10009C into law.
July 1, 2026	First tax year covered by the surcharge begins.
August 30, 2026	Deadline for DOF to issue first-year initial non-primary-residence notices.
January 1, 2027	First year surcharge payment is due for tax year 2026/27.
January 15, 2027	Expected tentative assessment roll date for tax year 2027/28.
March 1, 2027	Regular Tax Commission deadline for tax class 2 properties, including most condos and co-ops.
March 15, 2027	Regular Tax Commission deadline for tax class 1 properties.
July 1, 2027	Second year surcharge payment is due for tax year 2027/28 (1st half).
January 1, 2028	Second year surcharge payment is due for tax year 2027/28 (2nd half).
January 15, 2028	DOF begins publishing sales-based condo/co-op values for phase two surcharge purposes, applicable for tax years 2028/29 and later.

OWNERS MAY NEED TO PROTEST VALUE, PRIMARY RESIDENCE, OR BOTH

The law creates a separate Tax Commission review process for the surcharge. The grounds for review are that the surcharge market value is excessive, that it is unlawful, or that the property or co-op apartment is a primary residence.

This review process is separate from an ordinary property tax protest. An owner should not assume that a regular Tax Commission protest automatically preserves surcharge-specific issues.

For tax year 2026/27, the filing window is unusual. The law allows an application to be filed beginning when DOF issues the notice of surcharge, and continuing until the last date for filing a surcharge market-value review application for tax year 2027/28.

If a property is definitely not a primary residence, the owner should consider being ready to protest the value. For tax class 1 properties, that may involve reviewing whether DOF's market value is supported by sales of comparable homes. For condos and co-ops in phase one, the valuation issue will be harder because the current DOF values are based on estimated rental income rather than apartment sale prices.

Because the surcharge review process is valuation-heavy, owners should consider using a representative who understands New York City property valuation, who regularly appears before the New York City Tax Commission, and who can file Article 7 petitions if court review becomes necessary.

I am an attorney who solely focuses on New York City real estate tax issues. I am also a former appraiser and remain an Accredited Senior Appraiser of the American Society of Appraisers. Our property tax team has appeared before the New York City Tax Commission thousands of times and regularly files Article 7 petitions in Supreme Court challenging New York City property taxes.

WHAT CO-OP BOARDS AND MANAGING AGENTS SHOULD DO NOW

Co-ops may face the most administrative burden. For phase one, DOF will not value each co-op apartment by sales price. Instead, the law imputes value to a co-op apartment using the co-op building's DOF market value and the apartment's share allocation.

DOF will send the non-primary residence determination Notices to the co-op or managing agent, who should then notify the affected shareholder. If a surcharge is imposed on a co-op apartment, DOF adds the surcharge to the co-op property's statement of account. The co-op corporation must then collect the unit-specific surcharge from the affected tenant-stockholder.

Co-op managing agents should start preparing a schedule of units, shares, total shares, and potentially affected apartments. They should also be prepared to handle DOF notices, forward notices to affected shareholders, and address billing procedures if a surcharge appears on the co-op's tax account.

Boards should not wait until the surcharge appears on a bill to decide how notices, shareholder inquiries, payment, protests, and refunds will be handled.

WHAT CONDO BOARDS AND MANAGING AGENTS SHOULD DO NOW

Condos are less complicated than co-ops for this purpose because each condo unit is separately assessed and separately billed. In most cases, the surcharge should be a unit-owner issue rather than a board collection issue.

That does not mean condominium managing agents can ignore the law. Unit owners will likely ask questions about DOF values, primary residence, entity ownership, tenant occupancy, and protest rights. Condo managing agents should be prepared to refer unit-owner inquiries to a representative familiar with New York City property valuation and Tax Commission procedure.

Condo boards and managing agents should avoid becoming responsible for determining a unit owner's personal tax residency, reviewing private income tax records, or advising whether an owner should claim New York City primary residence.

NEXT STEPS

Affected owners, boards, and managing agents should begin preparing now. The first DOF notices are due by August 30, 2026, and the first surcharge payment is due January 1, 2027.

- Review the 2026/27 final DOF market value for the property or unit.
- Determine whether the property is clearly a primary residence, clearly not a primary residence, or uncertain.
- Review ownership structure, including LLCs, corporations, partnerships, and trusts.
- Review leases if the property is tenant-occupied.
- Gather records that may support primary residence where appropriate.
- If the property is not a primary residence, consider whether the DOF value should be reviewed or challenged.
- For co-ops, prepare a unit/share schedule and a process for notices and billing.
- For condos, prepare to route unit-owner inquiries to a qualified representative.

CONCLUSION

The new pied-à-terre surcharge is more than a simple tax on second homes. It raises questions about primary residence, entity ownership, tenant occupancy, valuation, DOF notices, Tax Commission review, Article 7 review, and co-op and condo administration.

Owners of potentially affected properties should not wait until the surcharge appears on a tax bill. The first step is to review the property's DOF market value and determine whether the property may be treated as a non-primary residence. If the property is definitely not a primary residence, the next step may be to prepare for a valuation review and possible Tax Commission challenge.

Because DOF rules have not yet been issued, some details remain open. But the law is now enacted, the first notices are due in three months, and property owners, boards, and managing agents should begin preparing now.

SOURCE NOTE

This article is based on Part HH of A10009C, which added New York Tax Law Article 30-C and New York City Administrative Code Chapter 32. The statistical figures described above are based on our initial review of NYC Department of Finance final assessment data and assume, for illustration, that all threshold properties are non-primary residences. Actual surcharge liability will depend on primary-residence status, statutory exclusions, DOF rules, valuation review, and owner-specific facts.

This article covers the major changes in the State law that may be of interest to our readers. It is not intended to be a complete review of all provisions of the new law. The law may change.

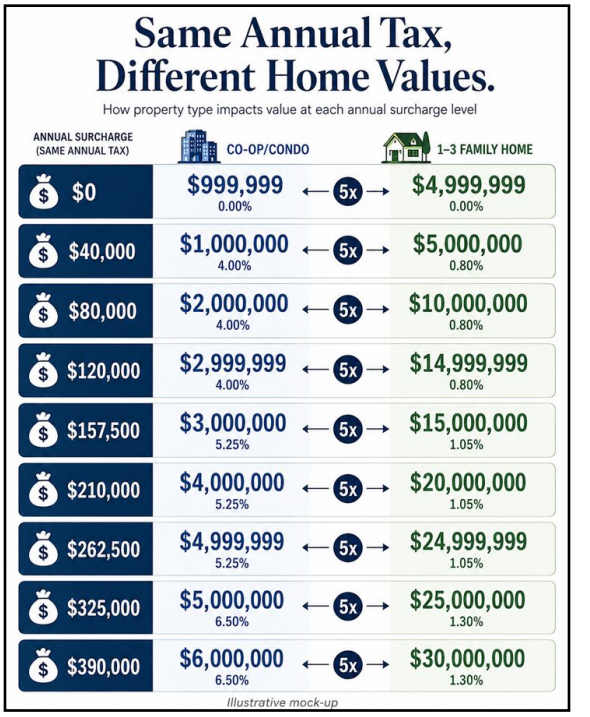
NYC PIED-A-TERRE TAX PROPOSAL WILL FORCE A NEW WAY TO VALUE CO-OPS AND CONDOS

MAY 15, 2026 | BY BENJAMIN M. WILLIAMS

Note: Details were still being reported as of May 14–15, 2026, and the final bill should be reviewed when released. This post is based on the reported proposal, current New York City property tax valuation rules, and preliminary analysis of potential properties that may meet the reported market value thresholds.

New York City's proposed pied-a-terre tax is being described as a tax on high-value second homes. But the more significant long-term issue may be valuation: the proposal will require the New York City Department of Finance (DOF) to begin estimating the sales value of co-op and condo apartments, which is not how those properties are valued for regular property tax purposes today.

Under the proposal reported this week, the surcharge would apply to certain non-primary residences in one- to three-family homes, co-ops, and condos. The tax is intended to raise approximately $500 million annually for New York City. The City Comptroller has warned, however, that actual revenue could be lower depending on exemptions, enforcement, rental treatment, ownership structures, and owner behavior.



Because the proposed rates do not appear to be tiered, the surcharge could jump sharply when a property crosses a valuation threshold, even by $1. For example, a condo valued at **$3,000,000** would owe a **$157,500** surcharge, while a condo valued at **$2,999,999** would owe approximately **$120,000** — a roughly **$37,500** difference based on a $1 valuation change. This impact will make it especially important for property owners to protest their market values.

REPORTED PIED-A-TERRE TAX RATE SCHEDULE

The proposal uses a two-step approach for co-ops and condos. One- to three-family homes would be taxed immediately based on DOF's estimated market value, which is already based on comparable sales. Co-ops and condos would initially be taxed using DOF's current market value, which is based on rental income methodology. After the first two years, DOF would move to a sales-based valuation system for co-ops and condos for purposes of the surcharge.

Property type/ timing	Value used	Reported value bracket	Reported surcharge rate	Example annual surcharge
Co-ops and condos – first two years	Current DOF market value based on estimated rental value	$1 million to $3 million	4.00%	$1 million x 4.00% = $40,000
		More than $3 million to $5 million	5.25%	$4 million x 5.25% = $210,000
		$5 million or more	6.50%	$5 million x 6.50% = $325,000
One- to three-family homes – immediately	DOF market value based on comparable sales	$5 million to $15 million	0.80%	$10 million x 0.80% = $80,000
		More than $15 million to $25 million	1.05%	$20 million x 1.05% = $210,000
		More than $25 million	1.30%	$30 million x 1.30% = $390,000
Co-ops and condos – after first two years	New DOF sales-based valuation	Same as one- to three-family homes	0.80% / 1.05% / 1.30%	Based on new sales-based value

Source note: Rate details are based on May 14, 2026 reporting by the New York Times and NY1. The final statute should be reviewed before relying on exact bracket lines, definitions, or exemptions.

WHY THE CO-OP AND CONDO THRESHOLD IS SO IMPORTANT

For tax class 1 one- to three-family homes, DOF already estimates market value using sales of similar properties in similar neighborhoods. But tax class 2 co-ops and condos are different. DOF values them as if they were income-producing rental properties, using income and expense information from comparable rental buildings.

That means the term "market value" can be misleading for co-ops and condos. A luxury condo that could sell for many millions of dollars may have a much lower DOF market value because DOF is not directly estimating what a buyer would pay for that apartment. One reported example described a condominium with an $18.5 million sales value but only a $1.1 million DOF market value. Under the temporary two-year system, that unit would pay a surcharge of approximately $44,000.

Using our rough analysis, a $1 million DOF market value condo apartment may imply an estimated rental value of approximately $17,000 per month. At a 45% assessment ratio, that apartment would have an assessed value of $450,000. Using a 12.44% tax rate for illustration, the regular property tax would be approximately $56,000. A 4% pied-a-terre surcharge would add $40,000, bringing the total annual property tax burden to approximately $96,000.

DOF HAS ALREADY BEEN TESTING SALES-BASED CONDO VALUATION

The proposal's two-year transition period is important because DOF would need to build a new valuation system for co-ops and condos. In March 2025, DOF entered into a six-month demonstration project with C3 AI to explore using artificial intelligence to value residential condominium properties using machine learning, sales data, and market data. The City Record notice described the pilot as studying the feasibility of using the sales comparison approach for condominiums with more than 10 units.

That pilot reportedly did not change current condo assessments. But it shows that the City has already been exploring the technical problem that this pied-a-terre proposal would now make more immediate: how to estimate the sales value of individual condominium apartments at scale.

IS THIS A PREVIEW OF PROPERTY TAX REFORM?

The pied-a-terre tax could also be a step toward broader property tax reform. The New York City Advisory Commission on Property Tax Reform recommended creating a new expanded residential class that would include one- to three-family homes, co-ops, condos, and four- to ten-unit rental buildings. It also recommended valuing all properties in that new residential class using a sales-based methodology, which would end the current requirement to value co-ops and condos based on comparable rental buildings. Both changes would require State legislation.

If DOF builds a sales-based co-op and condo valuation system for the pied-a-terre tax, that same infrastructure could potentially be used later for broader property tax reform. That does not mean regular co-op and condo property taxes would immediately change. But it would move the City closer to having the data and administrative process needed to replace rental-based co-op and condo valuations.

The political backdrop also matters. Mayor Zohran Mamdani said earlier this year that a New York City property tax reform proposal would be released, but no comprehensive proposal has yet been released. The pied-a-terre tax may therefore become the first practical step toward changing how high-value owner-occupied residential properties are valued.

PRELIMINARY REVENUE ANALYSIS

We reviewed potential properties that appear to meet the reported market value thresholds before determining which properties would qualify for any primary residence, family member, rental, or other exclusion.

Property category	Preliminary universe identified	Potential pied-a-terre tax revenue
Residential condominium units	11,684 units over $1 million DOF market value	$809 million
Co-op apartments	456 co-op buildings containing 5,244 apartments	$304 million
Tax class 1 one- to three-family homes	3,508 tax lots containing 3,944 units	$351 million
Total	Approximately 20,872 units / homes	$1.464 billion

These numbers are before excluding primary residences and other potentially exempt properties. If the City's target is $500 million per year, then roughly one-third of the notional universe — about 7,000 units or homes — would need to remain taxable after exclusions. In that scenario, the average pied-a-terre tax would be approximately $70,000 per apartment or home per year.

We had to make several assumptions and adjustments to estimate which co-ops and tax class 1 properties might be taxable, based on average market value per unit. For example, a four-unit co-op with a $3 million market value wouldn't be included in our potential universe, because the average market value is less than $1 million per unit. Nevertheless, that co-op could have two apartments with a rental-based market value of $1 million each and the other two with $500,000 each — and the former two would be taxable and the latter two not taxable.

The City Comptroller's analysis similarly emphasized that the revenue estimate depends heavily on unresolved implementation questions, including primary residence determinations, rental exemptions, co-op and condo valuation, treatment of two- and three-family homes, LLC and trust ownership, and behavioral responses.

KEY QUESTIONS STILL UNANSWERED

How will co-ops be valued?
Condos already have separate tax lots, but co-ops generally do not. The co-op corporation receives one assessment for the entire building. Will DOF value the entire building and allocate value by shares? Will it value only the residential component? What happens if a co-op has valuable commercial space? Or will DOF attempt to value each apartment separately?

How will primary residence be determined?
The City could use the existing co-op/condo abatement process, where managing agents report primary residence information. It could also use NYC or New York State income tax records. The choice matters because it will affect audit burden, administration, privacy, and the number of appeals.

How will LLCs, trusts, and family-use apartments be handled?
Luxury apartments are often owned through LLCs or trusts. Those structures may not neatly identify a primary resident, even when the apartment is used as someone's home. The proposal reportedly includes an exemption for apartments bought for certain family members, but the mechanics of that exemption remain unclear.

How will owners protest the market value?
This may become one of the most important practical issues. The FY2027 Tax Commission filing deadlines have already passed: March 2, 2026 for tax classes 2, 3, and 4, and March 16, 2026 for tax class 1. DOF has a separate Request for Review process for market value, but the FY2027 deadlines for that process have also passed. If the new surcharge depends on market value, affected owners will need a clear process to challenge that value.

Can the Tax Commission handle a wave of individual unit protests?
Condo buildings often file Tax Commission applications together for residential units. If individual condo owners have a new surcharge tied to their own unit value, some owners may want to file separately. Tax class 1 owners also rarely protest because assessed value caps often make DOF market value less important. A new surcharge could change that behavior.

Will one-year valuation spikes trigger the tax?
Earlier pied-a-terre proposals discussed by the Comptroller used a five-year average market value for one- to three-family homes. The currently reported proposal does not appear to use a five-year average for all categories. If the final bill does not include a smoothing mechanism, a one-year valuation error or spike could immediately trigger a large surcharge.

Will sponsors and developers be taxed on unsold condo units?
New condo buildings often take several years to sell out. If unsold sponsor units are treated as non-primary residences, the tax could increase carrying costs during sellout. The proposal will need to address whether sponsor-owned units are taxable, exempt, or treated differently.

CONCLUSION

The pied-a-terre tax is not just a proposed surcharge on high-value second homes. It will require New York City to create a new sales-based valuation system for co-ops and condos. That would be a major change from the current property tax system, where co-ops and condos are generally valued as if they were rental buildings.

The first two years may be the temporary phase. The longer-term issue is whether this becomes the starting point for a broader shift in how New York City values owner-occupied residential property.

NYC EXECUTIVE BUDGET UPDATE: THE "LAST RESORT" PROPERTY TAX RATE INCREASE IS GONE – BUT PROPERTY TAX BILLS ARE STILL PROJECTED TO RISE

MAY 13, 2026 | BY BENJAMIN M. WILLIAMS

On May 12, 2026, the Mayor released New York City's Fiscal Year 2027 Executive Budget. For property owners, the headline is that the Administration has scrapped the "last resort" 9.5% property tax rate increase that appeared in the February Preliminary Budget. The Mayor's materials now describe the budget as balanced "without raising property taxes," and the budget presentation uses the even cleaner phrase: "No Property Tax Increase."

That is good news, but it requires a little property-tax translation.

The Executive Budget does not eliminate property tax growth. It eliminates the proposed increase to the City's overall property tax rate, which would have moved from 12.283% to 13.450%. The City's own Financial Plan says that reversing that rate increase reduces expected revenue by $3.7 billion in FY2027.

But the same Financial Plan also projects that real property tax revenue will increase from $35.536 billion in FY2026 to $37.187 billion in FY2027. That is a 4.6% increase. And from FY2028 through FY2030, real property tax revenue is expected to grow by an average of 2.8% per year.

So the more accurate statement is this: there is no proposed increase to the overall property tax rate, but property tax revenue — and many individual property tax bills — are still expected to increase.

WHAT CHANGED FROM THE FEBRUARY PRELIMINARY BUDGET?

In my prior post, "NYC's Feb. 17, 2026 Preliminary Budget and the Proposed 'Last Resort' Property Tax Rate Increase: What It Could Mean for Taxpayers," I discussed the Preliminary Budget's proposed 9.5% increase to the average property tax rate.

The February Plan would have increased the average property tax rate from 12.283% to 13.450% beginning in FY2027. The City projected that the higher rate would generate $3.7 billion in FY2027, $3.6 billion in FY2028, $3.7 billion in FY2029, and $3.8 billion in FY2030. Under that plan, real property tax revenue was projected to rise to $40.349 billion in FY2027, a 14.1% increase over FY2026.

That part is now gone.

The Executive Budget reverses the proposed rate increase, reducing the FY2027 revenue forecast by $3.7 billion compared with the February Plan.

But that does not return taxpayers to a "no increase" world. It returns taxpayers to an assessment-growth world.

WHY DOES THE FY2027 INCREASE NOW SHOW 4.6%, NOT 3.7%?

One notable detail is that, after removing the 9.5% rate increase, the property tax growth number is actually higher than the baseline discussed in the February materials.

Under the February Plan, real property tax revenue was projected at $40.349 billion for FY2027. Removing the $3.7 billion rate increase gets to roughly $36.649 billion — about a 3.7% increase over the February FY2026 estimate of $35.361 billion.

The Executive Budget now forecasts $37.187 billion in FY2027 real property tax revenue. The reason is that the City has re-estimated the underlying property tax forecast upward. The Executive Budget identifies a positive

re-estimate of FY2027 property taxes of $538 million, and it also increases the FY2026 real property tax estimate by $175 million compared with the February Plan.

The City also now expects citywide taxable billable assessed value to grow 5.1% in FY2027, slightly higher than anticipated in February. The projected FY2027 TBAV growth rates are 3.6% for Class 1, 5.3% for Class 2, 7.1% for Class 3, and 4.7% for Class 4.

In other words, the "last resort" rate increase is gone, but the roll is still growing.

RATE INCREASES ARE NOT THE ONLY WAY TAX BILLS GO UP

This is a key distinction for taxpayers.

A property tax bill is not driven only by the tax rate. The Department of Finance calculates the bill by multiplying taxable value by the tax rate. DOF also values and assesses property each year, and the assessment process varies by tax class.

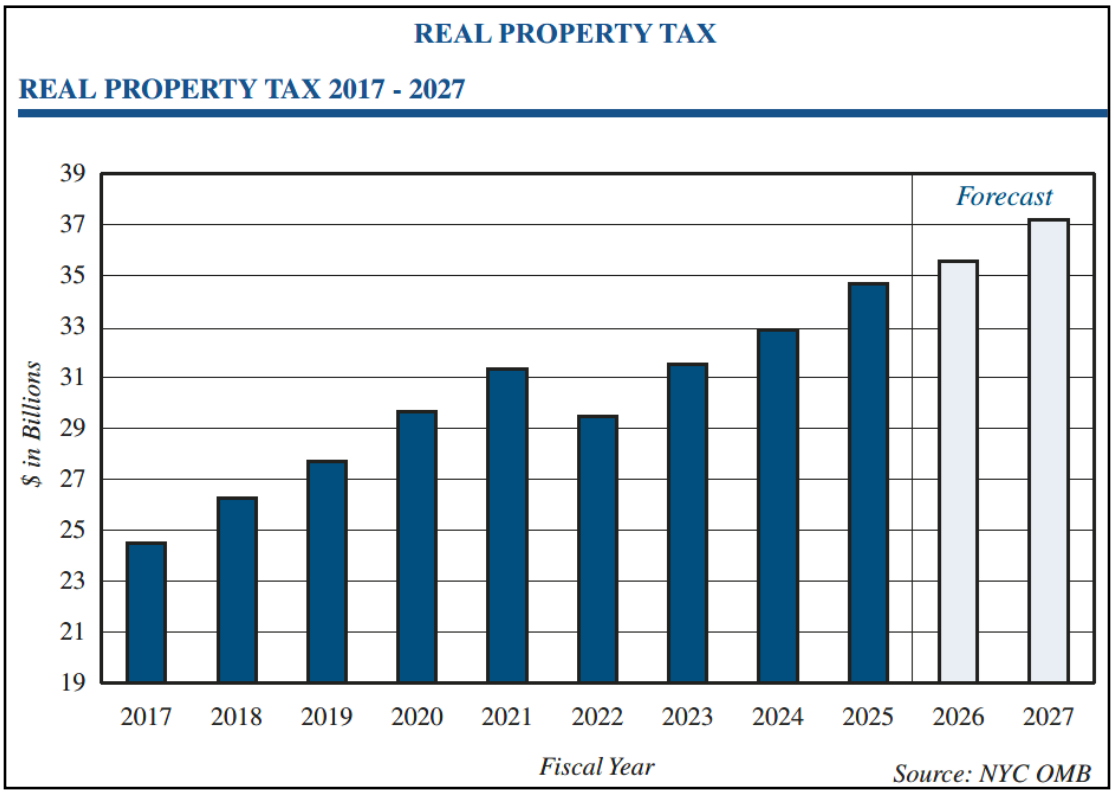
That means a taxpayer's bill can increase even if the applicable tax rate does not increase. A growing assessment, the phase-in of prior-year assessment increases, changes in exemptions or abatements, or changes in taxable billable assessed value can all produce higher taxes.

It is also worth remembering that the 12.283% number is not the actual tax rate used for each of the four tax classes. NYC properties are divided into four tax classes: Class 1 generally includes one- to three-family residential properties; Class 2 includes larger residential properties, including co-ops, condos, and apartment buildings; Class 3 and Class 4 are mostly utility and commercial properties.

Each class has its own tax rate. For tax year FY2026, DOF lists the rates as 19.843% for Class 1, 12.439% for Class 2, 11.108% for Class 3, and 10.848% for Class 4.

The Citywide rate is an overall, legislatively determined rate used to calculate the overall property tax levy. The class tax rates are then established by dividing each class's levy by that class's taxable billable assessed value.

So when the Executive Budget says the rate is being "reduced back down to 12.283 percent," that does not mean every class rate is frozen, and it does not mean every taxpayer's bill is flat.



ENTER THE NEW HIGH VALUE PROPERTY SURCHARGE — THE PIED-À-TERRE TAX

The Executive Budget also adds a new property-related revenue proposal: a non-resident-owned High Value Property Surcharge, commonly referred to as a pied-à-terre tax.

The Financial Plan describes this as a new property tax surcharge on high-value non-primary homes, expected to take effect beginning in FY2027. It would apply to the market value of eligible Class 1 and residential Class 2 properties — including condo and co-op units — valued over $5 million. The rate has not yet been determined. The City expects the surcharge to generate $500 million annually from FY2027 through FY2030. Nevertheless, the Comptroller expects under $400 million of revenue, as you can see in his Report where he footnoted my blog post, The Pied-à-Terre Tax Is Back: What the Bills Say, What Changed, and What Albany Still Has to Fix. (You can also see my follow-up blog post, An Outside-NYC Pied-à-Terre Tax Bill May Preview Key Issues for a Future NYC Version.)

Note the dichotomy: the City is saying "no property tax increase" while also proposing a new property tax surcharge on certain high-value, non-primary residences.

The City's own budget materials classify the High Value Property Surcharge as a new tax program that was not included in the February Plan, and the Financial Plan states that these assumed actions are not yet incorporated into the individual tax forecasts.

So for affected taxpayers, the practical takeaway is not "no property tax increase." It is: no broad 9.5% rate increase, but ordinary property tax growth continues — and a new surcharge may apply to certain high-value non-primary residences.

OTHER PROPERTY TAX ITEMS TO WATCH

There are a few additional items in the Executive Budget that deserve attention from property owners, managers, co-op and condo boards, and tax professionals.

First, the Financial Plan includes $13 million in City savings associated with Department of Finance measures to increase co-op/condo abatement compliance. That likely means more scrutiny of abatement eligibility and potentially more denials, revocations, or documentation requests.

Second, DOF enforcement around required filings remains an issue to watch. The Financial Plan notes that DOF assesses penalties for failure to timely file Real Property Income and Expense statements, and that enforcement efforts are expected to improve compliance due to increased penalties for non-filers who have not filed for three consecutive years.

Third, the State budget process still matters. The City's Executive Budget discusses cost increases reflected in the FY2027 Preliminary Budget that would be imposed by the Governor's Executive Budget, including an increase in the J-51 property tax exemption from 70% to 100% of certified reasonable costs. But the City also cautions that the Governor's proposed Executive Budget remains subject to negotiations with the State Senate and Assembly, and that there is no assurance that the actions described will be enacted as proposed.

CONCLUSION

The Mayor's Executive Budget is a materially better outcome for broad-based property taxpayers than the February Preliminary Budget. The proposed 9.5% "last resort" rate increase appears to be off the table.

But the phrase "no property tax increase" is too broad.

The better reading is:

- **No increase to the *overall* property tax rate.**
- **No broad 9.5% rate hike.**
- **But real property tax revenue is still projected to grow 4.6% from FY2026 to FY2027, assessment growth is still driving higher revenues, and a new $500 million-per-year pied-à-terre surcharge is now part of the budget plan.**

For taxpayers, the next items to watch are the final roll, class shares, final class tax rates, the details of the pied-à-terre surcharge, and DOF enforcement activity around abatements and RPIE filings.

AN OUTSIDE-NYC PIED-À-TERRE TAX BILL MAY PREVIEW KEY ISSUES FOR A FUTURE NYC VERSION

MAY 6, 2026 | BY BENJAMIN M. WILLIAMS

A recently introduced New York State Senate bill would authorize cities, towns, and villages outside New York City to impose a pied-à-terre-style tax on certain high-value non-primary residences. The bill does not apply to NYC. But for New York City property owners, especially owners of high-value condos, co-ops, and small residential properties, the bill may still be worth watching closely.

Why? Because it may preview some of the concepts lawmakers could use when drafting a future New York City pied-à-terre tax.

For NYC property tax purposes, the most important issue may not simply be whether a home is a "second home." It may be **how the property is valued**, how the owner's primary residence is determined, and whether the property falls above or below a taxable threshold or higher tax tier.

The proposed outside-NYC bill is therefore useful less because it would directly affect NYC property, and more because it shows what a future NYC framework could potentially borrow, modify, or avoid.

THE FIVE-YEAR AVERAGE VALUE CONCEPT COULD MAKE ANNUAL PROTESTS MORE IMPORTANT

One of the most important features of the outside-NYC bill is its valuation threshold. The bill would apply only to covered properties with a five-year average market value at or above a locally selected threshold. That threshold could be set between **$2.5 million and $5 million**. The five-year average market value is defined as the average of the property's full market value as determined for assessment purposes over the preceding five assessment rolls.

If New York City adopts a similar five-year average concept, annual property value protests could become especially important.

That is because each year's market value could feed into the five-year average used to determine whether a property is subject to the pied-à-terre tax. Owners near the threshold may not be able to wait until the tax is imposed or until they receive a large bill. They may need to challenge overstated market values every year to protect the future average.

This could be particularly significant for NYC condos and co-ops. Any NYC pied-à-terre tax will almost certainly be drafted differently from the outside-NYC bill because the NYC version would need to include condos and co-ops. The key issue will not be whether condos and co-ops are covered. The key issue will be **how their values are calculated for threshold and tier purposes.**

If the NYC threshold is based on a multi-year average of the Department of Finance's market values, then annual protests may become a central part of pied-à-terre tax planning.

IF NYC USES TIERS, SMALL VALUATION CHANGES COULD MATTER

The outside-NYC bill would allow municipalities to impose an annual tax at a rate between 0.5% and 4%, and it would allow graduated rates within that range.

That tier concept could be very important if NYC adopts a similar structure.

For example, a property owner clearly above the minimum threshold may still have a strong incentive to protest the property's value if a lower value could move the property into a lower tax tier. In that situation, a valuation protest would not merely affect the ordinary real property tax assessment. It could also affect

exposure to a separate annual pied-à-terre tax.

In other words, a future NYC pied-à-terre tax could transform high-end valuation protests. For some owners, the question may not only be: "Can I reduce my property tax assessment?" The question may become: "Can I reduce the value enough to avoid the pied-à-terre tax entirely, or at least move into a lower tier?"

THE "TWO NEW YORK HOMES" PROBLEM

A separate issue arises if both an NYC pied-à-terre tax and an outside-NYC pied-à-terre tax are enacted.

Consider an owner with an apartment in Manhattan and a house in the Hamptons. If only NYC had a pied-à-terre tax, the owner might try to avoid the NYC tax by claiming the Manhattan apartment as the primary residence. But if an outside-NYC municipality also adopts a pied-à-terre tax, that same choice could make the Hamptons home the non-primary residence and potentially subject it to the outside-NYC tax.

Conversely, if the owner claims the Hamptons house as the primary residence, the Manhattan apartment could potentially be exposed to the NYC tax.

That creates a practical problem for owners of multiple New York homes: they may effectively have to choose one primary residence, with the other property potentially becoming taxable as a pied-à-terre.

A related NYC-specific trap could arise for someone who has a rent-stabilized apartment in the city and also owns a second home outside NYC, such as a house in the Catskills. The outside-NYC bill would tax certain high-value homes that are not the owner's primary residence, unless another exclusion applies. But rent-stabilized protection also turns on primary residence: to be entitled to rent-stabilization protection, the apartment must be the tenant's primary residence, and that non-primary-residence occupancy can remove the apartment from rent-stabilization protection. So a tenant-owner in that situation may be boxed in. If they claim the Catskills house as their primary residence to avoid an outside-NYC pied-à-terre tax, that position could undermine their claim that the rent-stabilized NYC apartment is their primary residence. Conversely, if they maintain that the NYC apartment is their primary residence to preserve rent-stabilization rights, the Catskills house may be treated as the non-primary residence and could become PAT-taxable. Owning another home is not automatically disqualifying if the stabilized apartment remains the tenant's primary residence, but the landlord may question that claim and the tenant could lose protection if they cannot show an ongoing physical nexus to the apartment.

The outside-NYC bill defines "primary residence" as the dwelling unit where a natural person resides for the majority of the calendar year and which is designated as such for income tax purposes. If NYC adopts a similar definition, primary-residence disputes could become fact-intensive and closely tied to tax filings, documentation, occupancy history, and other residency evidence.

THE 50/50 REVENUE SPLIT COULD PREVIEW A POLITICAL FIGHT

The outside-NYC bill contains an unusual revenue-sharing feature. Fifty percent of the revenue would remain with the municipality imposing the tax. The other fifty percent would be remitted to the State Comptroller for deposit into the Aid and Incentives for Municipalities program, or a successor program, to support local governments with populations under one million.

That structure could become controversial if anything similar were proposed for NYC.

Would NYC property owners be paying a new NYC-based property tax if a meaningful portion of the revenue did not stay in NYC? Would the State seek to share in the revenue? Would NYC insist on retaining all of it? Those questions could become politically significant, especially if the tax is promoted as a way to address housing or budget issues within New York City.

THE OUTSIDE-NYC BILL MAY HAVE A CONDO/CO-OP LOOPHOLE — BUT NYC'S VERSION WILL NOT

The outside-NYC bill defines covered property as one-family, two-family, or three-family residential property. It does not expressly include condominiums or cooperative apartments.

That may create a potential coverage issue outside the city. High-value resort condos or other non-single-family ownership structures may not fit neatly within the bill's definition.

NYC is different. Any NYC pied-à-terre tax would almost certainly have to include condos and co-ops, because those property types are central to the NYC second-home market. That means the NYC drafting challenge will likely focus on valuation mechanics.

For condos and co-ops, what value will determine whether the property is over the threshold? Will NYC use Department of Finance market values? A five-year average? A special valuation method? A different method for co-ops than condos? These questions will matter because NYC condo and co-op values are already subject to complex property tax rules, and a pied-à-terre tax could make those values even more consequential.

LLCS, TRUSTS, AND BENEFICIAL OWNERS COULD BECOME A MAJOR ENFORCEMENT ISSUE

The outside-NYC bill defines an owner as an individual or entity holding legal title, but it also provides that tax eligibility requires at least one beneficial owner to maintain a primary residence outside the municipality where the covered property is located.

If NYC uses a similar beneficial-owner concept, enforcement could become complicated.

Many high-value NYC properties are owned through LLCs, trusts, family entities, partnerships, or other structures. A pied-à-terre tax would need rules for identifying the actual beneficial owners, determining where those owners live, and deciding what happens when different owners have different residency profiles.

For example, what if an LLC owns the property, one beneficial owner lives in NYC, and another lives outside NYC? What if a trust owns the property and a beneficiary uses it occasionally? What if a family entity owns several properties used by different family members?

These questions could become central to administration, enforcement, and tax planning.

THE FAMILY-MEMBER EXEMPTION COULD BECOME A PLANNING OPPORTUNITY

The outside-NYC bill excludes a property from covered-property status if it is occupied as a primary residence by a member of the owner's family.

If NYC adopts a similar exemption, it could create both practical relief and potential planning opportunities.

For example, an owner might argue that a pied-à-terre tax should not apply if an adult child, parent, sibling, or other family member uses the apartment as a primary residence. But that raises several questions. Who counts as "family"? What documentation would be required? Would the city audit those claims? Would the family member need to file tax returns using that address? Would the exemption apply if the family member occupies the apartment rent-free?

For NYC, this could become a major issue because many apartments are purchased or held for use by family members. A family-member exemption could therefore be one of the most important provisions in any NYC pied-à-terre tax.

TWO- AND THREE-FAMILY HOMES RAISE APPORTIONMENT QUESTIONS

The outside-NYC bill covers one-, two-, and three-family homes. It also excludes properties leased or rented to a person using the property as a primary residence.

That creates a potential problem for mixed-use residential occupancy.

For example, what happens if a two-family townhouse has one unit rented to a full-time tenant and one unit kept for the owner's occasional use? Is the entire property exempt because part of it is rented as a primary residence? Is the entire property taxable because the owner's unit is not a primary residence? Or should the tax be apportioned between the units?

If NYC adopts a pied-à-terre tax that reaches one-, two-, or three-family homes, these questions will matter. Many NYC townhouses

and small residential buildings have mixed occupancy patterns. Some are partly owner-used, partly rented, and partly vacant or intermittently used. The law would need clear rules for those situations.

RESIDENCY DETERMINATIONS COULD BECOME A NEW COMPLIANCE REGIME

The outside-NYC bill authorizes municipalities to require annual filings, residency certifications, and other documentation needed to determine whether the tax applies. It also authorizes the Department of Taxation and Finance to assist municipalities in identifying whether a property is a primary residence.

If NYC adopts a similar framework, the pied-à-terre tax could become a hybrid of property tax administration and residency enforcement.

Owners may need to certify whether a property is their primary residence. They may need to provide documentation. The city may need to evaluate tax filings, occupancy records, leases, utility usage, addresses used on official documents, and other evidence.

The rental exemption could create its own compliance issues. If a property is exempt because it is leased or rented to a person using it as a primary residence, how does the landlord prove the tenant's primary-residence use?

That could lead to new lease provisions. High-end landlords may want tenants to certify that the apartment will be used as the tenant's primary residence. They may also want clauses requiring the tenant to provide documentation, notify the landlord of any change in use, and potentially indemnify or reimburse the landlord if the tenant's non-primary use triggers pied-à-terre tax liability.

That would be a significant practical consequence. A pied-à-terre tax aimed at owners could end up changing lease drafting and landlord-tenant compliance practices.

BEHAVIORAL RESPONSES COULD AFFECT REVENUE AND ENFORCEMENT

A NYC pied-à-terre tax could also change owner behavior.

Owners may protest values more aggressively. They may restructure ownership through LLCs, trusts, or family entities. They may rent properties to primary-residence tenants. They may shift primary-residence claims between NYC and non-NYC homes. They may have family members occupy properties. Some may sell properties near the threshold or avoid buying properties that could trigger the tax.

These behavioral responses matter because they could reduce projected revenue and increase disputes. A tax that looks straightforward on paper may become much more complicated once owners respond to the incentives created by the law.

THE NYC STORY IS ABOUT MORE THAN SECOND HOMES

The outside-NYC pied-à-terre bill is not an NYC bill. But it may still be important for NYC property owners because it highlights the issues that could define any future NYC version.

For NYC, the biggest questions may be:

- How will condos and co-ops be valued?
- Will the threshold be based on a five-year average?
- Will annual assessment protests affect pied-à-terre tax exposure?
- Will the tax use graduated tiers?
- How will primary residence be determined?
- How will the city treat LLCs, trusts, family members, renters, and mixed-use small residential buildings?
- And will the revenue stay in NYC?

If a future NYC pied-à-terre tax uses property value as the gateway to taxability, then NYC property value protests could become even more important for high-value residential owners. The tax would not simply create a new charge on non-primary residences. It could create a new layer of valuation, residency, and compliance disputes — with annual assessment challenges playing a central role.

THE PIED-À-TERRE TAX IS BACK: WHAT THE BILLS SAY, WHAT CHANGED, AND WHAT ALBANY STILL HAS TO FIX

APRIL 23, 2026 | BY BENJAMIN M. WILLIAMS

For more than a decade, New York legislators have been circling the same basic idea: New York City should be allowed to impose an additional property tax on very high-value residential properties that are not used as primary residences. The proposal has appeared in successive legislative sessions since 2013-2014, and the core policy target has remained remarkably consistent: expensive New York City residential property that is used as a second home, investment asset, or occasional landing pad rather than as someone's primary home.

What has changed is the machinery. The early bills were simple. The later bills are more administrable, but also raise harder technical questions. And now that Governor Hochul has publicly proposed a $500 million annual pied-à-terre tax on luxury second homes valued at $5 million or more, the unresolved details matter much more. The Governor's announcement describes the tax as aimed at luxury second homes in New York City valued at $5 million or more, expected to raise at least $500 million annually, and applying only where the home is not the owner's primary residence, not rented to a primary resident, and not occupied by the owner's family. The Mayor's Office framed the proposal similarly, as an annual surcharge on one- to three-family homes, condominiums, and co-ops valued above $5 million where the owner has a separate primary residence outside New York City.

That public framing creates the central question for any final enacted version: is this a tax on non-primary residences, or a tax on non-New York City residents who own luxury homes here? Those are not always the same thing.

THE FIRST GENERATION: A SIMPLE $5 MILLION MARKET-VALUE SURCHARGE

The original 2013-2014 bill, A10192/S7941, would have added a new RPTL § 307-b authorizing New York City to impose an additional tax on certain residential properties. It applied to class one properties, excluding vacant land, and residential condominium and cooperative property with a market value of $5 million or more, where the property was not the primary residence of the owner or the owner's parent or child.

The early bill used a fixed statutory rate table. It started at 0.5% of excess value over $5 million, then rose through brackets, topping out at 4% of excess value above $25 million. It also defined market value as the current monetary value of the property using a comparable-sale-based valuation method as determined by the Department of Finance.

The early bills also tied primary residence to STAR. The property would be deemed the owner's primary residence if it would be eligible for the RPTL § 425 STAR exemption, regardless of whether the owner actually applied for or received STAR. Proof of primary residence and relationship to the owner would be handled through certification required by local law or DOF rule.

That STAR cross-reference was important because it supplied a familiar property-tax concept of primary residence. But it also created potential confusion. STAR itself is not merely a definition of primary residence; it is an exemption statute with its own ownership, income, application, discontinuance, and review rules. RPTL § 425 provides that the property must serve as the primary residence of one or more owners, but it also contains income limitations, administrative processes, and burden-of-proof language that may not fit a luxury pied-à-terre tax.

The original bills also had teeth. The 2013 bill contained a standalone penalty section imposing personal liability for certain willful or fraudulent noncompliance and authorizing a $10,000 penalty tax for a material misstatement discovered within three years.

2015-2018: SAME CONCEPT, NEW DATES

The 2015-2016 and 2017-2018 bills largely repeated the original model. They retained the $5 million market-value threshold, the fixed rate table, the class one / condo / co-op universe, and the STAR-based primary-residence concept. The main changes were timing changes: the 2015 amended bill moved the applicable fiscal year forward, and the 2017 bill applied to fiscal years beginning on or after July 1, 2018.

So through 2018, the proposal had not really matured. It had simply been reintroduced.

2019: THE TURNING POINT

The 2019-2020 bill cycle is where the proposal changed materially. A4540 had multiple versions, including an A version and a B version. By the B version, the bill no longer looked like a single market-value surcharge. It became a more technical framework for different property types.

The modern structure applies to "residential properties and dwelling units," not just residential properties. For one-, two-, and three-family residences, it uses a "five-year average market value," defined as the average monetary value for the previous five years using a comparable-sale-based method as determined by DOF. For condominiums, the trigger is assessed value of $300,000 or more. For co-ops, the trigger is assessed value attributable to a tenant-stockholder of $300,000 or more.

The rate structure also changed. Instead of one fixed table, the modern bill authorizes a tax of at least 0.5% and no more than 4% of excess market value above $5 million for one-, two-, and three-family residences. For condos and co-ops, it authorizes a tax of at least 10% and no more than 13.5% of excess assessed value above $300,000. The local legislative body may establish a graduated rate schedule within those limits.

The exemption structure also matured. The later bills require exemptions for properties or dwelling units that are the primary residence of at least one owner, the primary residence of a parent or child of an owner, rented full-time to tenants for whom the property or unit is their primary residence, and — for certain condos and co-ops — supported by an appraisal showing a value below $5 million.

That full-time rental exemption is central to the current politics. The proposal is no longer simply "tax expensive non-primary residences." It is closer to "tax expensive residential capacity that is not being used as a primary home by the owner, family, or tenant."

2021-2026: THE MODERN STRUCTURE STABILIZES

The 2021-2022, 2023-2024, and 2025-2026 versions preserve the post-2019 structure. The current A1044 keeps the same property-type distinctions, the same $5 million five-year average market-value trigger for one-, two-, and three-family residences, the same $300,000 assessed-value trigger for condos and co-ops, the same appraisal escape hatch, and the same full-time rental exemption. It moves the effective fiscal-year date to fiscal years beginning on or after July 1, 2026.

The current bill also delegates administration. It says the tax may be imposed, administered, collected, and enforced by the Commissioner of Finance in the same manner as other City taxes, unless otherwise provided by local law. It also leaves proof of exemption to local law or DOF rules.

That delegation is useful, but it leaves major implementation questions unanswered.

OPEN QUESTION 1: HOW DOES A TAXPAYER PROTEST VALUE OR NON-PRIMARY-RESIDENCE STATUS?

The bills do not create a dedicated protest process for pied-à-terre determinations. They do not say how an owner challenges DOF's five-year average market value, how a condo or co-op owner challenges the $300,000 assessed-value threshold, how a co-op shareholder disputes the assessed value attributed to the shareholder, or how an owner challenges a

denial of primary-residence, family-occupancy, rental, or appraisal-based exemption status.

Existing NYC assessment review procedures do some of this, but not all of it. The City's Tax Commission process allows owners to seek correction of the tentative assessment; class one applications generally run from January 15 to March 15, and other property classes from January 15 to March 1. A Tax Commission appeal may be filed for excessive assessed value, wrong tax class, or certain denied or revoked exemptions, but it also says the Tax Commission process is not for disputing market value or abatement denials.

Most tax class two co-op and condo buildings already file Tax Commission protests of the assessed value of the whole building. Residential condo units in one building usually file together in one application, rather than separate applications per unit. Without additional resources, the Tax Commission could not handle a large increase in the number of individual apartment protests.

That is not a perfect fit. A pied-à-terre surcharge may involve a value determination that is not the same as the ordinary assessed value, and a residency determination that is not an ordinary assessment issue. A final law should therefore provide a clear notice and protest path for four things: valuation, unit allocation, exemption eligibility, and penalties.

OPEN QUESTION 2: WHAT HAPPENED TO THE STAR PRIMARY-RESIDENCE TEST?

The early bills expressly mirrored STAR. The owner's primary-residence status was determined by whether the property would be eligible for the RPTL § 425 exemption, even if the owner had not applied for or received STAR.

The current A1044 no longer uses that STAR cross-reference. It simply requires an exemption for property or a dwelling unit that is the primary residence of at least one owner, the primary residence of a parent or child, rented full-time to a primary-resident tenant, or — for certain condos and co-ops — shown by appraisal to be worth less than $5 million. Proof is left to local law or DOF rules.

That is probably a good change. STAR is useful as a concept, but it is an awkward statute to import wholesale into a luxury-property surcharge. A high-income owner may clearly use a $5 million home as a primary residence even if that owner would not be eligible for STAR for income or administrative reasons. The modern bills avoid that trap by decoupling primary residence from STAR eligibility.

The downside is that the modern bills are less specific. RPTL § 425 contains burden-of-proof and review language for STAR discontinuance. It says the burden is on the owner to establish primary residence, and owners are entitled to seek administrative and judicial review of discontinuance as provided by law. Once the pied-à-terre bill drops the STAR cross-reference, that procedural apparatus is not automatically imported.

OPEN QUESTION 3: COULD THE CO-OP/CONDO ABATEMENT BECOME THE PRACTICAL PRIMARY-RESIDENCE TEST?

A final enacted law may use the co-op/condo abatement system as a practical shortcut. That would make sense because the City already collects primary-residence information for co-op and condo abatement purposes.

The co-op/condo abatement requires class 2 status, and at the unit level DOF says the unit may be eligible if it is the owner's primary residence, the owner does not own more than three residential units in the development, the owner is not receiving the clergy exemption, and the unit is not owned by a business such as an LLC or held by a sponsor, subject to limited exceptions. DOF also states that the board or managing agent applies on behalf of the development, and the owner certifies primary residence to the board or agent. RPTL § 467-a likewise contemplates that unit owners and shareholders may be required to submit information to verify primary residence.

But abatement eligibility should not be the whole test. A person can genuinely live in a unit as a primary residence and still fail the abatement rules for reasons unrelated to occupancy, including LLC ownership, sponsor status, ownership of multiple units, or building-level filing problems. The better final rule would be that co-op/condo abatement primary-residence certification creates a safe harbor or rebuttable presumption against pied-à-terre taxation, while

failure to receive the abatement does not automatically make the unit taxable.

OPEN QUESTION 4: DOES $300,000 OF CONDO/CO-OP ASSESSED VALUE REALLY EQUAL $5 MILLION OF MARKET VALUE?

The $300,000 assessed-value trigger is best understood as a proxy, not a true equivalency.

The math is this: class 2 property is assessed at 45% of DOF market value. So $300,000 of assessed value corresponds to roughly $666,667 of DOF market value. For that to equal a $5 million sales-based market value, DOF market value must be about 0.133 of true or sales-based value.

That sounds low, but the Property Tax Reform Advisory Commission's final report shows why the proxy exists. The Commission noted that some members supported state legislation increasing property taxes on properties with market value exceeding $5 million that are not primary-resident owner occupied, and its footnote specifically observed that newer versions of the bills use assessed-value thresholds for condos and co-ops because those properties are not currently valued through a comparable-sales model.

The Commission's data shows that high-end condo and co-op DOF values capture only a fraction of sales-based value. For co-ops, the FY2021 median ratio of DOF value to sales-based value was 0.16 for $5 million to $7.5 million units, 0.13 for $7.5 million to $10 million units, and 0.11 for units over $10 million. For class 2 condos, the FY2021 median ratios were 0.17, 0.15, and 0.12 for those same value bands. And these ratios may be different by borough.

So $300,000 AV is not a clean translation of $5 million market value. It is a screen. It may overinclude some units below $5 million and underinclude some above $5 million. That is why the appraisal escape hatch is important. The current A1044 exempts a condo or co-op unit with AV at or above $300,000 if the owner obtains a qualifying appraisal within the prior three years showing that the property or unit is worth less than $5 million.

OPEN QUESTION 5: CLASS 2C CAPS ARE PROBABLY MANAGEABLE — BUT THE FINAL LAW SHOULD SAY "MARKET AV"

For tax class 2C co-ops and condos, the capped actual or billable assessed value should not be the main concern. DOF likely would use something closer to "market AV" — DOF market value multiplied by the 45% class 2 assessment ratio — rather than the cap-limited value on which ordinary taxes are calculated.

DOF's own materials draw that distinction. DOF states that assessed value generally equals market value times the assessment ratio, but for class 1, 2A, 2B, and 2C properties, assessed value is modified by caps. It also defines "effective market value" for capped class 2A, 2B, and 2C properties by dividing capped assessed value by 45%. DOF's class 2 guide explains that for class 2 properties with 10 or fewer units, assessed value increases cannot exceed 8% in one year or 30% over five years, so the assessed value is the lower of 45% of market value or the capped amount.

The current bill's text, however, just says "assessed value." A final law should clarify that the $300,000 condo/co-op screen uses uncapped market AV, not capped billable or taxable AV. That is not a fatal problem; it is a drafting point.

OPEN QUESTION 6: CO-OP BUILDINGS WITH VALUABLE RETAIL CAN DISTORT THE CO-OP ALLOCATION

The current co-op language defines assessed value attributable to a tenant-stockholder as the shareholder's proportional share of the assessed value of real property owned by the cooperative

corporation, based on the shareholder's shares relative to total outstanding stock.

That can misfire in a mixed-use co-op. If the co-op corporation owns valuable ground-floor retail, garage space, signage income, or other commercial components, allocating the entire parcel assessment by residential shares could inflate the assessed value attributable to an apartment. The apartment may cross the $300,000 threshold not because the apartment is actually a $5 million residence, but because the shareholder is being allocated a slice of valuable nonresidential property.

A final law should require a residential-only allocation before applying the shareholder-share formula. In other words, the taxable base should be the residential assessed value attributable to the apartment, not the apartment's pro rata share of retail value. This solution would require DOF to value different uses separately in a co-op, which is something DOF doesn't already do.

OPEN QUESTION 7: MIXED-USE CLASS 1 BUILDINGS RAISE THE SAME PROBLEM

This issue is not limited to co-ops. Class 1 includes one-, two-, and three-family residential real property, including predominantly residential buildings with up to three units that may contain nonresidential spaces. DOF's own definitions say class 1 includes most residential property of up to three units, including small stores or offices with one or two apartments attached.

That means an apartment-over-store building can be class 1. If that property has a $6 million or $7 million DOF market value because of the commercial component, should it be treated as a $5 million luxury residence? As drafted, A1044 does not answer that. It simply refers to one-, two-, or three-family residences with a five-year average market value of $5 million or higher.

The final law should either exclude mixed-use class 1 properties unless the residential portion alone exceeds $5 million, or require DOF to allocate value between residential and commercial components.

OPEN QUESTION 8: TWO- AND THREE-FAMILY HOMES ARE NOT MEASURED ON AN AVERAGE-VALUE-PER-UNIT BASIS

This is one of the biggest drafting issues.

A1044 treats one-, two-, and three-family residences the same. The threshold is a five-year average market value of $5 million or more. The bill does not say $5 million per dwelling unit. It does not say $10 million for a two-family or $15 million for a three-family.

So, as drafted, a $6 million two-family house is over the threshold even though the average value per unit is only $3 million. A $9 million three-family house is over the threshold even though the average value per unit is also only $3 million.

That does not fit neatly with the public narrative of taxing "$5 million second homes." The final law should decide whether the taxable object is the tax lot or the dwelling unit. The fairest answer is probably an allocation rule: tax only the non-primary, non-rented dwelling unit whose allocated residential value exceeds $5 million. A blunt property-level rule overincludes two- and three-family homes; a blunt average-value rule may underinclude buildings where one unit is clearly a luxury residence and the other units are not.

OPEN QUESTION 9: IN REM OR IN PERSONAM?

One of the most important implementation questions is whether the pied-à-terre surcharge will be treated as a real-property charge against the parcel or unit, or as a personal tax imposed on the owner.

The current bill does not answer that question expressly. It authorizes the City to impose an additional tax on certain residential properties and dwelling units, and says the tax may be imposed, administered, collected, and enforced by the Commissioner of Finance in the same manner as other taxes administered by that Commissioner, unless otherwise provided by local law. That language gives the City flexibility; it does not, by itself, decide whether the tax is in rem or in personam.

The better argument for a property-tax-style

surcharge comes from the structure of the bill, not merely from DOF administration. The tax is in the Real Property Tax Law, applies by reference to real property classifications and assessed values, and is triggered by the value and use of particular residential properties or dwelling units. For one-, two-, and three-family homes and condominiums, the administratively simplest model would be to place the charge as a separate line on the property tax bill. NYC property tax bills already show current and past-due property tax charges, other property-related charges, exemptions, abatements, credits, and general tax-calculation information.

Co-ops are harder. The bill says the additional tax attributable to each tenant-stockholder shall be added by the cooperative apartment corporation to amounts otherwise payable by or chargeable to that tenant-stockholder. That suggests a hybrid: DOF determines the co-op-unit-level surcharge, but the co-op corporation passes the charge through to the affected shareholder.

A final enacted law should say expressly whether the surcharge is: (1) an in rem real property tax lien; (2) an in personam tax on the owner; or (3) a hybrid, especially for co-ops. The answer affects billing, interest, lien priority, tax-lien-sale exposure, refund claims, mortgage escrow treatment, co-op board collection rights, and whether a taxpayer must pay first and challenge later.

OPEN QUESTION 10: IS PRIMARY RESIDENCE A 184-DAY TEST?

Not necessarily.

For income-tax purposes, New York City residency follows the State residency model. A taxpayer is a NYC resident if domiciled in New York City, or if the taxpayer maintains a permanent place of abode in the City and spends 184 days or more there during the taxable year. Any part of a day counts, and the taxpayer does not need to be present at the permanent place of abode for that day to count.

But a property-tax primary-residence test is not necessarily the same thing as income-tax statutory residency. A person can be a NYC statutory resident for income-tax purposes and still have a factual dispute over which particular home is the person's primary residence. Conversely, a person can spend substantial time in a property without that property being the person's primary residence.

This matters because the Governor's announcement says the tax is aimed at people who own luxury homes but do not live in the City or pay City income tax. That framing is narrower than the current A1044 text, which is a non-primary-residence property tax, not expressly a nonresident-owner tax.

OPEN QUESTION 11: CAN NYC HAVE IT BOTH WAYS?

This may become the most interesting litigation issue.

In income-tax audits, the City and State may benefit from arguing that a taxpayer is a New York City resident because the taxpayer maintained a permanent place of abode and spent 184 or more days in the City. For pied-à-terre purposes, the City may benefit from arguing that the same taxpayer's New York City home is not the taxpayer's primary residence.

Those positions are not always legally inconsistent. Income-tax statutory residency and property-tax primary residence are different legal tests. But they are politically and factually awkward. If NYC successfully taxes someone as a City resident on worldwide income, that should at least be strong evidence against taxing that same residence as a pied-à-terre.

A final law should include a coordination rule. A sensible rule would say that a final determination that an owner was a NYC resident for personal income-tax purposes creates a rebuttable presumption that the NYC dwelling used as the permanent place of abode is not subject to the pied-à-terre surcharge for the corresponding period. That would prevent inconsistent factual positions without giving taxpayers a free pass on multiple luxury homes.

THE TWO-NYC-HOME HYPOTHETICAL

Assume a taxpayer owns two New York City homes, each worth more than $5 million. The taxpayer spends 100 days per year in each, for a total of 200 New York City days. The taxpayer has no other home outside the City.

Under an income-tax analysis, the taxpayer may well be a NYC resident because the taxpayer spent 184 or more days in the City and maintained a permanent place of abode. But under A1044, there is no blanket exemption for "NYC income-tax residents." The exemption is for a property or dwelling unit that is the primary residence of at least one owner, the primary residence of a parent or child, rented full-time to a primary-resident tenant, or qualifying under the condo/co-op appraisal rule.

So the taxpayer should not automatically get both homes exempt. The likely answer is that one home should be designated or proven as the primary residence, and the other could be subject to the pied-à-terre tax unless independently exempt. If the taxpayer truly splits time evenly between two homes, the final law should provide a designation rule rather than letting DOF argue that neither is primary.

That is especially important if the enacted law follows the Governor's public framing. If the tax is meant to reach nonresidents who do not pay NYC income tax, then a NYC resident taxpayer should have a strong argument that at least one NYC home must be treated as a primary residence.

WHAT A FINAL ENACTED VERSION MAY LOOK LIKE

A final law may look more like A1044 than the original 2013 bill. If it remains an enabling statute authorizing New York City to enact a local surcharge, then that will delay implementation as the City Council will need to hold hearings and votes on the final local law. The final law will likely keep the $5 million policy threshold, the full-time rental exemption, the family-occupancy exemption, the $300,000 condo/co-op assessed-value screen, and the appraisal escape hatch. It will likely allow the City to set graduated rates within statutory limits so the rate structure can be calibrated to the Governor's stated $500 million revenue target.

But the final law should do more than authorize the tax. It should answer the technical questions that will determine who is actually taxed:

1. whether the condo/co-op $300,000 threshold uses market AV and should the threshold vary by property type and by borough;
2. whether co-op retail value is excluded before allocating AV to shareholders;
3. whether mixed-use class 1 properties are tested only on residential value;
4. whether two- and three-family homes are tested property-wide, per unit, or by allocation;
5. whether co-op/condo abatement primary-residence certification creates a safe harbor;
6. whether NYC income-tax residency creates a presumption against pied-à-terre treatment;
7. whether one owner with multiple NYC homes may designate one primary residence;
8. what administrative protest and judicial review procedures apply;
9. whether the surcharge is imposed in rem on the property, in personam on the owner, or through a hybrid structure — especially for co-ops.

BOTTOM LINE

The pied-à-terre tax has evolved from a simple fixed surcharge into a more sophisticated non-primary-residence property-tax regime. The policy target has stayed the same: high-value New York City homes that are not functioning as primary residences. But the drafting has moved from a broad market-value concept to a property-type-specific system built around five-year average market value for one- to three-family homes and assessed-value proxies for condos and co-ops.

The modern proposal is more administrable, but also more fragile. The hard part will not be saying "tax $5 million second homes." The hard part will be deciding what counts as a $5 million home, what counts as a primary residence, how to treat mixed-use and multi-unit properties, and whether the City can call someone a resident for income-tax purposes while calling the person's home a pied-à-terre for property-tax purposes.

That is where the final legislation will either succeed or fail.

LEGAL RESOURCES



Part HH of Chapter 59 of the 2026 Laws of New York

Section 1. Legislative findings. The residents of New York city and many who do business here contribute daily to the health and vibrancy of the city through their economic activity and the taxes they pay. However, many of the city's most valuable homes are held as second homes, allowing the owners of those homes to reap considerable benefits from the city's broader economy, from city services, and from a vibrant real estate market. The legislature finds that it is prudent to impose a surcharge on the owners of these second homes to maintain important city services.

The legislature further finds that this surcharge should be applied to second homes with values of $5 million or more when measured by the sales of comparable properties. Recognizing that many second homes in New York city have not historically been valued using comparable sales methods, the legislature finds that it is appropriate, for the initial phase of the surcharge, to impose the surcharge on such properties using current valuation methods and corresponding surcharge rates the legislature deems appropriate for this transitional period.

§ 2. The tax law is amended by adding a new article 30-C to read as follows:

ARTICLE 30-C

CITY SURCHARGE ON PROPERTY THAT DOES NOT SERVE AS A PRIMARY RESIDENCE

Section 1350. Imposition of surcharge.
1351. Definitions.
1352. Primary residence.
1353. Surcharge rates.
1354. Administration of surcharge.
1355. Administrative and judicial review.
1356. Information sharing.

§ 1350. Imposition of surcharge. In addition to any other tax or assessment imposed by this chapter or other law, there is hereby imposed, beginning on July first, two thousand twenty-six, a surcharge in accordance with this article on a covered property, or in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, that is not a primary residence, provided that (a) for fiscal years beginning on or after July first, two thousand twenty-six, and before July first, two thousand twenty-eight, the phase one market value of such covered property that is a class one property is equal to or greater than five million dollars, the phase one market value of such covered property that is a residential condominium dwelling unit is equal to or greater than one million dollars, or, in the case of a covered property that is a residential cooperative property, the phase one market value of a residential cooperative dwelling unit within such residential cooperative property is equal to or greater than one million dollars; and (b) for fiscal years beginning on or after July first, two thousand twenty-eight, the phase two market value of such covered property or, in the case of a covered property that is a

residential cooperative property, such residential cooperative dwelling unit, is equal to or greater than five million dollars.

§ 1351. Definitions. As used in this article, the following terms shall have the following meanings:

(a) "Administrative code" means the administrative code of the city of New York.

(b) "Class one property" means class one, as such class of property is defined in section eighteen hundred two of the real property tax law, other than such property described in subparagraph (c) of such definition.

(c) "Class two property" means class two, as such class of property is defined in section eighteen hundred two of the real property tax law.

(d) "Covered owner" means:

(1) an owner or owners of real property classified as class one property;

(2) a tenant-stockholder of a cooperative corporation whose interest in a portion of real property held by such corporation is represented by shares of stock in such corporation;

(3) an owner or owners of a residential condominium dwelling unit;

(4) where real property classified as class one or a residential condominium dwelling unit is held, or shares of stock in a cooperative corporation are held, in trust, a beneficial owner or owners of such trust, provided that such beneficial owner or owners are the sole beneficiaries of such trust; or

(5) where real property classified as class one or a residential condominium dwelling unit is held, or shares of stock in a cooperative corporation are held, by a partnership, corporation or limited liability company, a partner or partners, shareholder or shareholders or member or members of such partnership, corporation, or limited liability company, respectively, provided that such partner or partners, shareholder or shareholders, or member or members hold a majority interest in such partnership, corporation or limited liability company respectively.

(e) "Covered property" means real property, other than excluded property, classified as:

(1) class one property, other than vacant land;

(2) class two property that is a residential cooperative property in which at least one residential cooperative dwelling unit: (A) has a phase one market value equal to or greater than one million dollars or phase two market value equal to or greater than five million dollars; and (B) is not a primary residence; and

(3) class two property that is a residential condominium dwelling unit.

(f) "Department of finance" means the department of finance in a city having a population of one million or more.

(g) "Excluded property" means a class one or class two property:

(1) for which a temporary or permanent certificate of occupancy is required and has not yet been issued; or

(2) a residential condominium dwelling unit or residential cooperative dwelling unit that is subject to an offering plan required by section three hundred fifty-two-e of the general business law and such unit has not been sold, or an economic interest in such unit has not been transferred, by the person, partnership, corporation, company, trust or association who has filed such plan.

(h) "Imputed cooperative phase one market value" means the market value of a residential cooperative dwelling unit in a residential cooperative property, calculated as the product of:

(1) the market value of such residential cooperative property as determined by the department of finance pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this article is imposed; and

(2) the quotient of (A) the shares in a cooperative corporation representing an interest in such residential cooperative dwelling unit; divided by (B) the total shares of stock in such cooperative corporation.

(i) "Notice of surcharge" means a notice issued by the department of finance to an owner indicating that a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, is, or may be, subject to the surcharge authorized by this article, including the phase one market value or phase two market value, as applicable, of such covered property or residential cooperative dwelling unit and a determination by the department of finance that such covered property or residential cooperative dwelling unit is not a primary residence.

(j) "Owner" means:

(1) an owner or owners of real property classified as class one property;

(2) a tenant-stockholder of a cooperative corporation whose interest in a portion of real property held by such corporation is represented by shares of stock in such corporation, or such corporation; or

(3) an owner or owners of a residential condominium dwelling unit.

(k) "Phase one market value" means:

(1) for a class one property, the market value of a covered property as determined by the department of finance pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this article is imposed;

(2) for a class two property that is a residential condominium dwelling unit, the market value of such residential condominium dwelling unit as determined by the department of finance pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this article is imposed; and

(3) for a class two property that is a residential cooperative property, the imputed cooperative phase one market value for any residential cooperative dwelling unit in such residential cooperative property.

(l) "Phase two market value" means:

(1) for a class one property, the market value of a covered property

as determined by the department of finance pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this article is imposed;

(2) for a class two property that is a residential condominium dwelling unit, the market value of such residential condominium dwelling unit, as determined by the department of finance pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this article is imposed, provided that such market value shall be determined using a method that considers sales of comparable residential condominium dwelling units or comparable residential cooperative dwelling units without regard to the restrictions described in section five hundred eighty-one of the real property tax law or section three hundred thirty-nine-y of the real property law; and

(3) for a class two property that is a residential cooperative property, the market value of any residential cooperative dwelling unit in such residential cooperative property, as determined by the department of finance pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this article is imposed, provided that such market value shall be determined using a method that considers sales of comparable residential cooperative dwelling units or comparable residential condominium dwelling units without regard to the restrictions found in section five hundred eighty-one of the real property tax law.

(m) "Primary residence" means the use of a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, as of the taxable status date immediately preceding the fiscal year in which the surcharge described by this article is imposed, as a primary residence of (1) one or more of the covered owners, or an immediate family member of one or more of the covered owners, provided such covered owners are natural persons; or (2) one or more lessees, and any sub-lessees to which a lessee has sublet the covered property or residential cooperative dwelling unit pursuant to subdivision two of section two hundred twenty-six-b of the real property law, provided any such lessee or sub-lessee is a natural person occupying such covered property or residential cooperative dwelling unit pursuant to a bona fide lease agreement negotiated in an arms-length transaction with a term of not less than one year. For purposes of this article, the phrase "immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild.

(n) "Residential condominium dwelling unit" means a unit, as defined in section three hundred thirty-nine-e of the real property law, held in a condominium form of ownership and used as residential real property, other than: (1) such a unit that is residential cooperative property; or (2) such a unit that includes more than three dwelling units and all such dwelling units are held by the same owner, except where the department of finance determines that a unit has been divided into more than three units to avoid application of the surcharge.

(o) "Residential cooperative dwelling unit" means a dwelling unit in

real property held by a cooperative corporation where an owner is a tenant-stockholder of such cooperative corporation and such dwelling unit is used as residential real property.

(p) "Residential cooperative property" means real property owned or leased by a cooperative corporation and that contains one or more residential cooperative dwelling units.

(q) "Taxable status date" means the January fifth immediately preceding the fiscal year in which the surcharge is imposed pursuant to this article.

§ 1352. Primary residence. (a) Determination of primary residency. (1) The department of finance shall make, on an annual basis, an initial determination that a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, that has a phase one or phase two market value equal to, or greater than, the threshold provided in section thirteen hundred fifty of this article, is not a primary residence. The department of finance shall make a determination of primary residence based on factors identified by rules of the department of finance, including but not limited to whether such covered property or residential cooperative dwelling unit was occupied in aggregate for a majority of days during a calendar year by a covered owner of such covered property or residential cooperative dwelling unit. The department of finance shall make such initial determination based on information available to such department.

(2) The department of finance shall provide notice to the owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, of such initial determination, provided that, for the fiscal year beginning July first, two thousand twenty-six, such department shall provide such notice no later than August thirtieth, two thousand twenty-six. Such notice shall include an opportunity for such owner to submit proof of primary residence, to the satisfaction of such department, in accordance with a time period established by rules of such department. The department of finance may require that such owner provide a certification that such covered property or residential cooperative dwelling unit is a primary residence, as well as any documentation demonstrating:

(A) that a covered owner provided the address of such covered property or residential cooperative dwelling unit as such covered owner's permanent home address on the New York state resident income tax return filed by such covered owner for the calendar year that ends immediately preceding the fiscal year in which the surcharge is imposed;

(B) such covered property or residential cooperative dwelling unit received a real property tax exemption pursuant to section four hundred twenty-five of the real property tax law during the fiscal year immediately preceding the fiscal year in which the surcharge is imposed or the owner of such covered property or residential cooperative dwelling unit received a tax credit pursuant to subsection (eee) of section six hundred six of the tax law for such covered property or residential

cooperative dwelling unit for the calendar year immediately preceding the fiscal year in which the surcharge is imposed; or

(C) such covered property or residential cooperative dwelling unit is the primary residence of one or more lessees or sub-lessees to which a lessee has sublet such covered property or residential cooperative dwelling unit pursuant to subdivision two of section two hundred twenty-six-b of the real property law or an immediate family member of a covered owner.

(3) After consideration of a submission of proof of primary residence by a covered owner pursuant to paragraph two of this subsection, and other available information, the department of finance shall determine whether such covered property or residential cooperative dwelling unit is not a primary residence. Such determination shall constitute a final determination of the department of finance.

(4) The department of finance may require electronic submission of any certification or documentation described in this section.

(5) Failure to provide the notice required by this section shall not affect the validity of the imposition of the surcharge authorized by this article.

(b) Promulgation of rules. The department of finance may promulgate rules to:

(1) specify additional factors or documentation that may assist in the initial or final determination of whether a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, is a primary residence; and

(2) establish a process through which the department of finance may audit any certification or documentation of primary residency submitted pursuant to this section within six years of such submission.

§ 1353. Surcharge rates. The surcharge shall be calculated as follows:

(a) For fiscal years beginning on or after July first, two thousand twenty-six, and before July first, two thousand twenty-eight, (1) for covered property that is in class one, where the phase one market value is (A) greater than or equal to five million dollars, but less than or equal to fifteen million dollars, at a rate of 0.8 percent; (B) greater than fifteen million dollars, but less than or equal to twenty-five million dollars, at a rate of 1.05 percent; (C) greater than twenty-five million dollars, at a rate of 1.3 percent; and (2) for covered property that is a residential condominium dwelling unit or, in the case of a residential cooperative property, a residential cooperative dwelling unit, where the phase one market value is (A) greater than or equal to one million dollars, but less than or equal to three million dollars, at a rate of 4.0 percent; (B) greater than three million dollars, but less than or equal to five million dollars, at a rate of 5.25 percent; (C) greater than five million dollars, at a rate of 6.5 percent.

(b) For fiscal years beginning on or after July first, two thousand twenty-eight, for covered property or, in the case of a residential cooperative property, a residential cooperative dwelling unit, where the

phase two market value is (1) greater than or equal to five million dollars, but less than or equal to fifteen million dollars, at a rate of 0.8 percent; (2) greater than fifteen million dollars, but less than or equal to twenty-five million dollars, at a rate of 1.05 percent; (3) greater than twenty-five million dollars, at a rate of 1.3 percent.

§ 1354. Administration of surcharge. (a) The department of finance shall add the surcharge authorized by this article to the statement of account of a covered property. In the case of a residential cooperative property, the department of finance shall add to the statement of account of such residential cooperative property the sum of any surcharges authorized by this article for each residential cooperative dwelling unit in such residential cooperative property where such dwelling unit: (1) has a phase one or phase two market value equal to, or greater than, the threshold provided in section thirteen hundred fifty of this article; and (2) does not serve as a primary residence. Such surcharge shall be due and payable in the same manner as real property taxes are due and payable pursuant to section fifteen hundred nineteen-a of the New York city charter. The department of finance shall administer and enforce this surcharge, to the greatest extent practicable not inconsistent with this section, in the same manner used to administer and enforce real property taxes, except that any abatement, credit or exemption authorized by law shall not apply to such surcharge.

(b) Notwithstanding subsection (a) of this section, any surcharge imposed on a covered property in the fiscal year commencing on July first, two thousand twenty-six, shall be due and payable on the same date as the second semi-annual installment of real property taxes is due, as described in section fifteen hundred nineteen-a of the charter of the city of New York.

(c) Notwithstanding any provision of law to the contrary, where the department of finance adds the sum of any surcharges authorized by this article for a residential cooperative dwelling unit pursuant to subdivision (a) of this section to the statement of account of a residential cooperative property, each such surcharge shall be collected by the cooperative corporation from the tenant-stockholder of such cooperative corporation whose interest in each such residential cooperative dwelling unit is represented by shares of stock in such corporation.

(d) Notwithstanding any provision of law to the contrary, the surcharge imposed on a covered property pursuant to this article shall be separate and distinct from any other tax levied on real property. Any revenue collected as a result of the imposition of this surcharge shall not be included in the calculation of the tax levy for purposes of determining class shares pursuant to article eighteen of the real property tax law, shall not be subject to apportionment among classes of real property, and shall not be considered when establishing tax rates for any class of property. Such revenue shall be considered receipts other than taxes on real property for the purposes of section fifteen hundred fifteen of the New York city charter.

(e) The department of finance may promulgate any rules:

(1) necessary to implement this article, including, but not limited to, rules:

(A) to address a change in ownership of a covered property or a residential cooperative dwelling unit, or illness or death of an owner of a covered property or residential cooperative dwelling unit;

(B) to authorize persons other than a covered owner to submit proof of primary residency on behalf of a covered owner;

(C) relating to requirements for provision of notice of surcharge; or

(D) to establish when a sale of a residential condominium dwelling unit, or a transfer of an economic interest in a residential cooperative dwelling unit, has occurred for purposes of paragraph two of subdivision (g) of section thirteen hundred fifty-one of this article.

(2) to establish penalties not exceeding fifty percent of the surcharge imposed on a covered property by this article if, after notice and a hearing, the department of finance determines that:

(A) any certification or documentation submitted to the department of finance contains inaccurate or misleading information that: (i) is material to the determination of the imposition of such surcharge, including a determination relating to primary residence; and (ii) was submitted negligently or in bad faith; or

(B) a covered property that is a residential condominium unit has been divided into more than three units to avoid application of such surcharge and the owner of such covered property has made such division in bad faith.

(f) The department of finance may enforce and collect any penalty imposed pursuant to the authority set forth in subsection (e) of this section in the same manner as the department of finance enforces and collects the surcharge authorized by this article.

(g) The commissioner of the department of finance may subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the determination of the surcharge, including a determination relating to primary residence.

§ 1355. Administrative and judicial review. (a) Notwithstanding any provision of law to the contrary, an owner of a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, may seek administrative and judicial review of the imposition of the surcharge on such covered property or residential cooperative dwelling unit pursuant to the provisions of the administrative code imposing such surcharge.

(b) The remedies provided by the provisions of the administrative code imposing such surcharge shall be the exclusive remedies available to any person for the review of liability of the surcharge authorized by this article.

§ 1356. Information sharing. A city having a population of one million or more imposing a surcharge pursuant to this article shall, upon

request by the commissioner of taxation and finance, provide the department of taxation and finance with any records in its possession used or considered in determining whether a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, is not a primary residence. The department of taxation and finance shall, upon request by such city, provide such city with any records in its possession contained in any return filed pursuant to article thirty of this chapter or disclosed by any investigation of tax liability under such article for the purposes of implementing such surcharge. Information shared pursuant to this subsection shall not be subject to disclosure pursuant to article six of the public officers law.

§ 3. Title 11 of the administrative code of the city of New York is amended by adding a new chapter 32 to read as follows:

CHAPTER 32
SURCHARGE ON PROPERTY THAT DOES NOT SERVE AS A PRIMARY RESIDENCE

§ 11-3201 Definitions. As used in this chapter, the following terms have the following meanings:

Class one property. The term "class one property" means class one, as such class of property is defined in section eighteen hundred two of the real property tax law, other than such property described in subparagraph (c) of such definition.

Class two property. The term "class two property" means class two, as such class of property is defined in section eighteen hundred two of the real property tax law.

Commissioner. The term "commissioner" means the commissioner of the department of finance.

Covered owner. The term "covered owner" means:

(i) an owner or owners of real property classified as class one property;

(ii) a tenant-stockholder of a cooperative corporation whose interest in a portion of real property held by such corporation is represented by shares of stock in such corporation;

(iii) an owner or owners of a residential condominium dwelling unit;

(iv) where real property classified as class one or a residential condominium dwelling unit is held, or shares of stock in a cooperative corporation are held, in trust, a beneficial owner of such trust, provided that such beneficial owner or owners are the sole beneficiaries of such trust; or

(v) where real property classified as class one or a residential condominium dwelling unit is held, or shares of stock in a cooperative corporation are held, by a partnership, corporation or limited liability company, a partner or partners, shareholder or shareholders or member or members of such partnership, corporation, or limited liability company, respectively, provided that such partner or partners, shareholder or shareholders, or member or members hold a majority interest in such

partnership, corporation or limited liability company respectively.

Covered property. The term "covered property" means real property, other than excluded property, classified as:

(i) class one property, other than vacant land;

(ii) class two property that is a residential cooperative property in which at least one residential cooperative dwelling unit: (A) has a phase one market value equal to or greater than one million dollars or phase two market value equal to or greater than five million dollars; and (B) is not a primary residence; and

(iii) class two property that is a residential condominium dwelling unit.

Department. The term "department" means the department of finance.

Excluded property. The term "excluded property" means a class one or class two property:

(i) for which a temporary or permanent certificate of occupancy is required and has not yet been issued; or

(ii) a residential condominium dwelling unit or residential cooperative dwelling unit that is subject to an offering plan required by section three hundred fifty-two-e of the general business law and such unit has not been sold, or an economic interest in such unit has not been transferred, by the person, partnership, corporation, company, trust or association who has filed such plan.

Imputed cooperative phase one market value. The term "imputed cooperative phase one market value" means the market value of a residential cooperative dwelling unit in a residential cooperative property, calculated as the product of:

(i) the market value of such residential cooperative property as determined by the department pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this chapter is imposed; and

(ii) the quotient of (A) the shares of stock in such cooperative corporation representing an interest in such residential cooperative dwelling unit; divided by (B) the total shares of stock in such cooperative corporation.

Notice of surcharge. The term "notice of surcharge" means a notice issued by the department to an owner indicating that a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, is, or may be, subject to the surcharge imposed by this chapter, which includes the phase one market value or phase two market value, as applicable, of such covered property or residential cooperative dwelling unit as determined by the department, and a determination by the department that such covered property or residential cooperative dwelling unit is not a primary residence.

Owner. The term "owner" means:

(i) an owner or owners of real property classified as class one property;

(ii) a tenant-stockholder of a cooperative corporation whose interest in a portion of real property held by such corporation is represented by

shares of stock in such corporation, or such corporation; or

(iii) an owner or owners of a residential condominium dwelling unit.

Phase one market value. The term "phase one market value" means:

(i) for a class one property, the market value of a covered property as determined by the department pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described by this chapter is imposed; and

(ii) for a class two property that is a residential condominium dwelling unit, the market value of such residential condominium dwelling unit as determined by the department pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described by this chapter is imposed; and

(iii) for a class two property that is a residential cooperative property, the imputed cooperative phase one market value of any residential cooperative dwelling in such residential cooperative property.

Phase two market value. The term "phase two market value" means:

(i) for a class one property, the market value of a covered property as determined by the department pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this chapter is imposed;

(ii) for a class two property that is a residential condominium dwelling unit, the market value of such residential condominium dwelling unit as determined by the department pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this chapter is imposed, provided that such market value shall be determined using a method that considers sales of comparable residential condominium dwelling units or comparable residential cooperative dwelling units without regard to the restrictions described in section five hundred eighty-one of the real property tax law or section three hundred thirty-nine-y of the real property law; and

(iii) for a class two property that is a residential cooperative property, the market value of any residential cooperative dwelling unit in such residential cooperative property, as determined by the department pursuant to chapter fifty-eight of the New York city charter for the fiscal year in which the surcharge described in this chapter is imposed, provided that such market value shall be determined using a method that considers sales of comparable residential cooperative dwelling units or comparable residential condominium dwelling units without regard to the restrictions found in section five hundred eighty-one of the real property tax law.

Primary residence. The term "primary residence" means the use of a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, as of the taxable status date immediately preceding the fiscal year in which the surcharge described by this chapter is imposed, as a primary residence of (i) one or more of the covered owners, or an immediate family member of one or more of the covered owners, provided such covered owners are natural persons; or (ii) one or more lessees, and any sub-lessees to which a lessee has

sublet the covered property or residential cooperative dwelling unit pursuant to subdivision two of section two hundred twenty-six-b of the real property law, provided any such lessee or sub-lessee is a natural person occupying such covered property or residential cooperative dwelling unit pursuant to a bona fide lease agreement negotiated in an arms-length transaction with a term of not less than one year. For purposes of this chapter, the phrase "immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild.

Residential condominium dwelling unit. The term "residential condominium dwelling unit" means a unit, as defined in section three hundred thirty-nine-y of the real property law, held in a condominium form of ownership and used as residential real property, other than: (i) such a unit that is residential cooperative property; or (ii) such a unit that includes more than three dwelling units and all such dwelling units are held by the same owner, except where the department determines that a unit has been divided into more than three units to avoid application of the surcharge.

Residential cooperative dwelling unit. The term "residential cooperative dwelling unit" means a dwelling unit in real property held by a cooperative corporation where an owner is a tenant-stockholder of such cooperative corporation and such dwelling unit is used as residential real property.

Residential cooperative property. The term "residential cooperative property" means real property owned or leased by a cooperative corporation and that contains one or more residential cooperative dwelling units.

Surcharge. The term "surcharge" means the surcharge imposed pursuant to section 11-3202 of this chapter.

Taxable status date. The term "taxable status date" has the meaning set forth in section fifteen hundred seven of the New York city charter.

§ 11-3202 Imposition of surcharge. In accordance with article thirty-C of the tax law, in addition to any other tax or assessment imposed by this chapter or other law, and notwithstanding section three hundred five of the real property tax law, a surcharge is hereby imposed on a covered property or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, that is not a primary residence, provided that (a) for fiscal years beginning on or after July first, two thousand twenty-six, and before July first, two thousand twenty-eight, the phase one market value of such covered property that is in class one is equal to or greater than five million dollars, the phase one market value of such covered property that is a residential condominium dwelling unit is equal to or greater than one million dollars, or, in the case of a covered property that is a residential cooperative property, the phase one market value of a residential cooperative dwelling unit within such residential cooperative property is equal to or greater than one million dollars, and (b) for fiscal years beginning on or after July first, two thousand twenty-

eight, the phase two market value of such covered property or, in the case of a covered property that is a residential cooperative property, such residential cooperative dwelling unit, is equal to or greater than five million dollars.

§ 11-3203 Primary residence. (a) Determination of primary residency. (1) The department shall make, on an annual basis, an initial determination that a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, that has a market value amount equal to or greater than the applicable phase one or phase two market value threshold established in section 11-3202 of this chapter, is not a primary residence. The department shall make a determination of primary residence based on factors identified by rules of the department, including but not limited to whether such covered property or residential cooperative dwelling unit was occupied in aggregate for a majority of days during a calendar year by a covered owner of such covered property or residential cooperative dwelling unit. The department shall make such initial determination based on information available to such department.

(2) The department shall provide notice to the owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, of such initial determination, provided that, for the fiscal year beginning July first, two thousand twenty-six, such department shall provide such notice no later than August thirtieth, two thousand twenty-six. Such notice shall include an opportunity for such owner to submit proof of primary residence to the satisfaction of such department in accordance with a time period established by rule by the department. The department may require that such owner provide a certification that such covered property or residential cooperative dwelling unit is a primary residence, as well as documentation demonstrating:

(i) that a covered owner provided the address of such covered property or residential cooperative dwelling unit as such covered owner's permanent home address on the New York state resident income tax return filed by such covered owner for the calendar year that ends immediately preceding the fiscal year in which the surcharge is imposed;

(ii) such covered property or residential cooperative dwelling unit received a real property tax exemption pursuant to section four hundred twenty-five of the real property tax law during the fiscal year immediately preceding the fiscal year in which the surcharge is imposed or the owner of such covered property or residential cooperative dwelling unit received a tax credit pursuant to subsection (eee) of section six hundred six of the tax law for such covered property or residential cooperative dwelling unit for the calendar year immediately preceding the fiscal year in which the surcharge is imposed; or

(iii) such covered property or residential cooperative dwelling unit is the primary residence of one or more lessees or a sub-lessees to which a lessee has sublet such covered property or residential cooper-

ative dwelling unit pursuant to subdivision two of section two hundred twenty-six-b of the real property law or an immediate family member of a covered owner.

(3) After consideration of a submission of proof of primary residence by an owner pursuant to paragraph two of this subdivision, and other available information, the department shall determine whether such covered property or residential cooperative dwelling unit is not a primary residence. Such determination shall constitute a final determination of the department.

(4) Where an owner fails to submit proof of primary residence pursuant to paragraph two of this subdivision, the initial determination made by the department pursuant to paragraph one of this subdivision shall constitute a final determination of such department and shall not be subject to challenge pursuant to section 11-3206 of this chapter, unless such owner has challenged such initial determination of primary residence pursuant to paragraph two of subdivision (b) of section 11-3206 of this chapter.

(5) The department shall provide any notice required by this section by electronic means and may require that an owner submit any certification or documentation by electronic means, provided that the department may promulgate rules authorizing other forms of communication for any such owner or owners for whom the department does not have an electronic address available, or for whom communication by electronic means is not practicable or feasible.

(6) Failure to provide the notice required by this section shall not affect the validity of the imposition of the surcharge authorized by this chapter.

(b) The department may promulgate rules to:

(1) specify additional factors or documentation that may assist in the initial or final determination of whether a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, is a primary residence; and

(2) establish a process through which the department may audit any certification or documentation of primary residency submitted pursuant to this section within six years of such submission.

§ 11-3204 Surcharge rates. The department shall calculate the surcharge imposed pursuant to section 11-3202 of this chapter as follows:

(a) For fiscal years beginning on or after July first, two thousand twenty-six, and before July first, two thousand twenty-eight, (1) for covered property that is in class one, where the phase one market value is (i) greater than or equal to five million dollars, but less than or equal to fifteen million dollars, at a rate of 0.8 percent; (ii) greater than fifteen million dollars, but less than or equal to twenty-five million dollars, at a rate of 1.05 percent; (iii) greater than twenty-five million dollars, at a rate of 1.3 percent; and (2) for covered property that is a residential condominium dwelling unit or, in the case

of a residential cooperative property, a residential cooperative dwelling unit, where the phase one market value is (i) greater than or equal to one million dollars, but less than or equal to three million dollars, at a rate of 4.0 percent; (ii) greater than three million dollars, but less than or equal to five million dollars, at a rate of 5.25 percent; (iii) greater than five million dollars, at a rate of 6.5 percent.

(b) For fiscal years beginning on or after July first, two thousand twenty-eight, for covered property or, in the case of a residential cooperative property, a residential cooperative dwelling unit, where the phase two market value is (1) greater than or equal to five million dollars, but less than or equal to fifteen million dollars, at a rate of 0.8 percent; (2) greater than fifteen million dollars, but less than or equal to twenty-five million dollars, at a rate of 1.05 percent; (3) greater than twenty-five million dollars, at a rate of 1.3 percent.

§ 11-3205 Administration of surcharge. (a) The department shall add the surcharge imposed pursuant to section 11-3202 of this chapter to the statement of account required pursuant to section 11-129 of this title of a covered property. In the case of a residential cooperative property, the department shall add to the statement of account of such property the sum of any surcharges authorized by this chapter for each residential cooperative dwelling unit in such residential cooperative property where such dwelling unit: (1) has a phase one or phase two market value equal to, or greater than, the threshold provided in section 11-3202 of this chapter; and (2) does not serve as a primary residence. Any abatement, credit or exemption of the real property taxes owed by such covered property shall not apply to such surcharge.

(b) Such surcharge shall be due and payable in the same manner as real property taxes are due and payable pursuant to section fifteen hundred nineteen-a of the New York city charter. Such surcharge and any penalties authorized pursuant to paragraph three of subdivision (b) of section 11-3203 of this chapter, and the interest imposed thereon in accordance with section 11-224.1 of this title, shall continue to be a lien on the covered property. Such lien shall be a tax lien within the meaning of sections 11-301, 11-319 and 11-401 of this title and may be sold, enforced or foreclosed in the manner provided in chapters three or four of this title or section 11-3208 of this chapter.

(c) The department shall administer and enforce this surcharge, to the greatest extent practicable not inconsistent with this chapter, in the same manner used to administer and enforce real property taxes. For purposes of section fifteen hundred four of the New York city charter, the term "real property taxes" shall include the surcharge imposed pursuant to section 11-3202 of this chapter. Notwithstanding the preceding sentences of this subdivision, section 11-207 of this title shall not apply to this surcharge and this surcharge shall not constitute a real property tax for the purposes of section fifteen hundred twenty-seven of such charter. For the purposes of the preparation, publication, addition or adjustment of the annual record of assessed valuation or

assessment rolls, or any processes required by law to produce such rolls, the department shall only be required to publish information relating to phase two market values of covered properties in relation to this surcharge.

(d) The books of annual records of the phase one or phase two market value, as applicable, of covered property shall be opened to the public on the same dates and in the same manner as the books of the assessed valuation of real estate pursuant to section fifteen hundred ten of the New York city charter. For the fiscal year beginning July first, two thousand twenty-six, the books of annual records of the phase one market value shall be opened to the public not later than the date on which a notice of surcharge is issued to an owner of a covered property, or, in the case of a residential cooperative property, to a cooperative corporation, and remain open during the usual business hours for public inspection and examination until December thirty-first, two thousand twenty-six. The commissioner, previous to and during the time such books are open to public inspection, shall advertise such fact in the city record and in such other newspaper or newspapers published in the several boroughs as may be authorized by the director of the city record with the approval of the mayor and the comptroller. The provisions of this subdivision shall not affect any time frame in which the books of annual record are open for the purposes of inspection of annual valuation for the purposes of the assessment of real property taxes.

(e) Notwithstanding subdivision (b) of this section, any surcharge imposed on a covered property in the fiscal year commencing on July first, two thousand twenty-six, shall be due and payable on the same date as the second semi-annual installment of real property taxes is due, as described in section fifteen hundred nineteen-a of the charter of the city of New York.

(f) Notwithstanding any provision of law to the contrary, where the department adds the sum of any surcharges imposed pursuant to section 11-3202 of this chapter for a residential cooperative dwelling unit pursuant to subdivision (a) of this section to the statement of account of a residential cooperative property, each such surcharge shall be collected by the cooperative corporation from the tenant-stockholder of such cooperative corporation whose interest in each such residential cooperative dwelling unit is represented by shares of stock in such corporation.

(g) Notwithstanding any provision of law to the contrary, the surcharge imposed on a covered property pursuant to section 11-3202 of this chapter shall be separate and distinct from any other tax levied on real property. Any revenue collected as a result of the imposition of such surcharge shall not be included in the calculation of the tax levy for purposes of determining class shares pursuant to article eighteen of the real property tax law, shall not be subject to apportionment among classes of real property, and shall not be considered when establishing tax rates for any class of property. Such revenue shall be considered receipts other than taxes on real property for the purposes of section

fifteen hundred fifteen of the New York city charter.

(h) Upon receipt of a notice of surcharge by a residential cooperative property, the cooperative corporation that holds such residential cooperative property shall provide such notice to the owners of the residential cooperative dwelling unit that is the subject of such notice as soon as practicable.

(i) The department may promulgate any rules:

(1) necessary to implement this chapter, including, but not limited to, rules: (i) to address a change in ownership of a covered property or a residential cooperative dwelling unit, or illness or death of an owner of a covered property or residential cooperative dwelling unit; (ii) to authorize persons other than a covered owner to submit proof of primary residency on behalf of a covered owner; (iii) relating to requirements for provision of notice of surcharge, including rules designating such notice as the statement of account required pursuant to section 11-129 of this title, the assessment roll required pursuant to chapter fifty-eight of the New York city charter, or a combination including such statement and such roll; or (iv) to establish when a sale of a residential condominium dwelling unit, or a transfer of an economic interest in a residential cooperative dwelling unit, has occurred for purposes of whether such residential condominium dwelling unit or residential cooperative dwelling constitutes excluded property.

(2) to establish penalties not exceeding fifty percent of the surcharge imposed on a covered property by this chapter if, after notice and a hearing, the department determines that:

(i) any certification or documentation submitted to the department contains inaccurate or misleading information that: (A) is material to the determination of the imposition of such surcharge, including a determination relating to primary residence; and (B) was submitted negligently or in bad faith; or

(ii) a covered property that is a residential condominium unit has been divided into more than three units to avoid application of such surcharge and the owner of such covered property has made such division in bad faith.

(j) The commissioner of the department may subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the determination of the surcharge, including a determination relating to primary residence.

§ 11-3206 Administrative and judicial review. (a) When used in this section, the following terms have the following meanings:

Excessive. The term "excessive" means, as it related to the value of a covered property, an assessment of the market value of a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, made for the purposes of the surcharge which exceeds the full value of such covered property or residential cooperative dwelling unit.

Market value. The term "market value" means the phase one market value

or phase two market value, as applicable for the fiscal year for which the surcharge is imposed.

Unlawful. The term "unlawful" means, as it relates to the value of a covered property an assessment of the market value of covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, made for the purposes of the surcharge where:

(i) such covered property or residential cooperative dwelling unit is not subject to the surcharge imposed by this chapter;

(ii) such covered property or residential cooperative dwelling unit is entirely outside the boundaries of the city of New York; or

(iii) such covered property or residential cooperative dwelling unit cannot be identified from the assessment roll description or tax map land parcel number on the assessment roll, provided that, in the case of residential cooperative property, the market value is not unlawful where an entry on an assessment roll identifies a residential cooperative dwelling unit by the street address and unit number of such residential cooperative dwelling unit; or

(iv) such assessment has been made by a person or body without authority to make such entry.

(b) During the time that the books of annual records of the phase one market value or phase two market value of a covered property are open for public inspection, an owner of covered property claiming to be aggrieved by the market value of such covered property, or, in the case of a residential cooperative property, of a residential cooperative dwelling unit within such residential cooperative property, determined for purposes of the surcharge imposed pursuant to section 11-3202 of this chapter may apply to the tax commission for correction of such market value. Such application shall be duly verified by a person having personal knowledge of the facts stated therein, provided that if the application is signed by someone other than the person or an officer of the corporation claiming to be aggrieved, the application must be accompanied by a duly executed power of attorney and any other documentation as prescribed by the rules of the tax commission. An owner may challenge, pursuant to this section, the following:

(1) the market value of such covered property or residential cooperative dwelling unit, as determined by the department;

(2) an initial determination by the department that such covered property or residential cooperative dwelling unit is not a primary residence, provided that such owner or cooperative corporation challenges the market value of such covered property or residential cooperative dwelling unit pursuant to paragraph one of this subdivision at the same time as such initial determination; and

(3) a final determination by the department that such covered property or residential cooperative dwelling unit is not a primary residence.

(c) The grounds for review shall be that the market value determined by the department is excessive or unlawful, or that the covered property, or, in the case of a residential cooperative property, the residential cooperative dwelling unit, is a primary residence.

(d) The application shall be on a form prescribed by the tax commission and shall contain a statement specifying the respect in which the market value is excessive or unlawful, or the respect in which the covered property, or, in the case of a residential cooperative property, the residential cooperative dwelling unit, is a primary residence, and the reduction in market value or determination of primary residency sought.

(e) The filing of an application in the manner and form hereinabove described shall be prerequisite to the review of a final determination of the tax commission as provided in section one hundred sixty-six of the New York city charter. Such application shall be filed in the office of the tax commission in the borough in which such covered property is situated. Employees of the commission assigned by the president for the purpose of receiving such applications are hereby authorized to administer oaths between the first day of November, two thousand twenty-six, and the first day of March, two thousand twenty-seven, and between the fifteenth day of January and the first day of March in any year thereafter.

(f) Except as otherwise provided in this section, an application shall be filed, and the tax commission shall review an application in the same manner and between the same dates as an application for review of an assessment pursuant to sections one hundred sixty-four, one hundred sixty-four-a, one hundred sixty-four-b, one hundred sixty-five, one hundred sixty-six, and fifteen hundred twelve of the New York city charter and subchapter one of chapter two of this title. Notwithstanding any other provision of law to the contrary, where an application is filed for review of the market value of real estate for the fiscal year beginning July first, two thousand twenty-six, such application may be filed between the date on which a notice of surcharge is issued to an owner of a covered property, or, in the case of a residential cooperative property, to a cooperative corporation, and the last date on which an application may be filed pursuant to this section for review of the market value of a covered property for the fiscal year beginning July first, two thousand twenty-seven, and the tax commission shall review an application filed pursuant to this section for review of the market value of a covered property for the fiscal year beginning July first, two thousand [twenty-six][i], in the same manner and between the same dates as an application filed pursuant to this section for review of the market value of real estate for the fiscal year beginning July first, two thousand twenty-seven.

(g) An application filed with the tax commission pursuant to this section or a determination by the tax commission pursuant to this section shall not be given any force or effect in any other administrative proceeding before the tax commission or in any subsequent judicial proceeding brought to review any other determination by the tax commission, provided that, where the tax commission makes a determination with regard to a residential cooperative dwelling unit in a residential cooperative property, the tax commission shall consider such determination

in any proceeding relating to any other residential cooperative dwelling unit in such residential cooperative property for the same fiscal year.

(h) An owner of a covered property may challenge, in accordance with title one of article seven of the real property tax law, and notwithstanding any provision of such article seven to the contrary, a final determination by the tax commission pursuant to this section on the grounds for review described in subdivision (c) of this section. A challenge pursuant to this subdivision must be commenced within the time specified by section one hundred sixty-six of the New York city charter.

§ 11-3207 Information sharing. The city shall, upon request by the commissioner of taxation and finance, provide the department of taxation and finance with any records in its possession used or considered in determining whether a covered property, or, in the case of a residential cooperative property, a residential cooperative dwelling unit, is not a primary residence. The department of taxation and finance shall, upon request by such city provide such city with any records in its possession contained in any return filed pursuant to article thirty of the tax law or disclosed by any investigation of tax liability under such article for the purposes of implementing the surcharge. Information shared pursuant to this subdivision shall not be subject to disclosure pursuant to article six of the public officers law.

§ 11-3208 Proceedings to recover surcharge. (a) Whenever any owner, or, in the case of a residential cooperative property, a cooperative corporation, subject to the surcharge imposed pursuant to section 11-3202 of this chapter shall fail to pay such surcharge or any interest, as herein provided, the corporation counsel shall, upon the request of the commissioner, bring or cause to be brought an action to enforce the payment of the same on behalf of the city of New York in any court of the state of New York or of any other state or of the United States.

(b) As an additional or alternate remedy, the commissioner may issue a warrant, directed to the city sheriff commanding such sheriff to levy upon and sell the real and personal property of such owner or cooperative corporation that may be found within the city, for the payment of the amount thereof, with any interest, and the cost of executing the warrant, and to return such warrant to the commissioner and to pay to such sheriff the money collected by virtue thereof within sixty days after the receipt of such warrant. The city sheriff shall within five days after the receipt of the warrant file with the county clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the such owner or cooperative corporation mentioned in the warrant and the amount of the surcharge and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and the interest in real and personal property of such owner or cooperative corporation against whom the warrant is issued. The city sheriff shall then proceed upon the warrant in the same manner, and with like

effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant such sheriff shall be entitled to the same fees, which such sheriff may collect in the same manner. In the discretion of the commissioner, a warrant of like terms, force and effect may be issued and directed to an officer or employee of the department, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the commissioner may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the city had recovered judgment therefor and execution thereon had been returned unsatisfied.

(c) The commissioner, if such commissioner finds that the interests of the city will not thereby be jeopardized, and upon such conditions as the commissioner may require, may release any property from the lien of any warrant or vacate such warrant for unpaid taxes, additions to tax, penalties and interest filed pursuant to subdivision (b) of this section, and such release or vacating of the warrant may be recorded in the office of any recording officer in which such warrant has been filed. The clerk shall thereupon cancel and discharge as of the original date of docketing the vacated warrant.

(d) The procedures provided in this section for the enforcement of the surcharge against any such owner or cooperative corporation shall be in addition to any other methods provided under any other provision of law for the enforcement such surcharge.

§ 4. Subdivision b of section 153 of the New York city charter, as amended by local law number 76 of the city of New York for the year 1984, is amended to read as follows:

b. The tax commission shall be charged with the duty of reviewing and correcting all assessments of real property made pursuant to the provisions of section fifteen hundred six and all determinations of market values of real property made pursuant to chapter thirty-two of title eleven of the administrative code of the city of New York.

§ 5. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, or part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 6. This act shall take effect immediately; provided, however, that article 30-C of the tax law, as added by section two of this act, and chapter 32 of title 11 of the administrative code of the city of New York, as added by section three of this act, shall apply to fiscal years commencing on or after July 1, 2026; and provided further that this act shall expire and be deemed repealed on June 30, 2031.

[i] Corrected by Part EE of Chapter 127 of the 2026 Laws of New York. Previously read "twenty-eight."

New York City Department of Finance

Notice of Adoption of Final Rules

Pursuant to the authority vested in the New York City Department of Finance ("DOF") by sections 1043(a) and 1504 of the New York City Charter, as well as chapter 32 of title 11 of the Administrative Code of the City of New York, DOF is adopting rules relating to the administration of a surcharge on certain real properties that do not serve as a primary residences.

Statement of Basis and Purpose

The New York City Department of Finance ("DOF") is adopting the following rule change in accordance with the powers set forth in New York City Charter ("Charter") §§ 1043(a) and 1504, as well as chapter 32 of title 11 of the New York City Administrative Code ("Administrative Code").

On May 28, 2026, New York State adopted part HH of chapter 59 of the laws of 2026 into law, which enacted a new chapter 32 within title 11 of the Administrative Code, imposing a surcharge on certain residential properties that do not serve as the primary residence of the owners of such properties, their immediate family members, or a tenant. *See also* Tax Law art. 30-C (codifying the corresponding enabling statute, also added by part HH of chapter 59 of the laws of 2026). This surcharge, colloquially known as the pied-à-terre tax, imposes an additional tax that is calculated as the product of a surcharge rate established by statute and the market value of the applicable property, or with respect to a residential cooperative property, a residential cooperative dwelling unit. *See* Administrative Code §§ 11-3202 to 11-3204. This surcharge will only apply to qualifying class one residential properties, residential cooperative dwelling units and residential condominiums units that are not used as a primary residence by an owner or their immediate family members or a tenant and that have market values exceeding thresholds set forth in the Administrative Code. *See* Administrative Code § 11-3202. If a property or cooperative dwelling unit's valuation exceeds the threshold, the entirety of the property's value is subject to the surcharge.

Chapter 59 of the laws of 2026 requires DOF to administer and enforce this surcharge to the greatest extent practicable in the same manner used to administer and enforce real property taxes. *See* Administrative Code § 11-3205(c). The law also confers authority on DOF to promulgate rules governing certain aspects of the administration of the surcharge. Therefore, DOF is adopting the following rule change pursuant to its powers set forth in Charter §§ 1043(a) and 1504, as well as Administrative Code §§ 11-3203(b) and 11-3205(i).

On June 9, 2026, a proposed version of these rules was published in the City Record. *See* City Record at 2460-65 (June 9, 2026). DOF held a hearing for public comment on July 9, 2026. Many members of the public provided written and verbal comments regarding this rulemaking. Some commenters requested additional clarity regarding procedures regarding application of the surcharge. These final rules are intended to clarify DOF policy regarding the surcharge. Additional guidance materials will be provided online regarding the surcharge.

Section one of this rule adds a new chapter 62 to title 19 of the Rules of the City of New York.

- Section 62-01 of this chapter adds definitions to complement the definitions already set forth in Administrative Code § 11-3201, which also apply to 19 RCNY ch. 62.
    - This final rule includes a difference from the proposed version of this rule; the final rule clarifies that the term "economic interest" includes an economic interest in shares in a cooperative corporation, in addition to an economic interest in a real property.
    - DOF received comments relating to the scope of definitions relating to primary residency. One commenter suggested that properties that are leased out for use as a primary residence should not be subject to the full tax; this policy is already a feature of the applicable statute, and is further implemented through these rules. *See* Administrative Code § 11-3201 (defining "primary residence"); 19 RCNY § 62-06.
    - Another commenter suggested that DOF amend the definition of "arm's length transaction" to avoid hypothetical circumstances in which one limited liability company ("LLC") leases to a second LLC to avoid application of the surcharge. After reviewing this comment, DOF determined that no such amendment is necessary because an LLC tenant would not be able to establish primary residency, as a lessee or sub-lessee can only establish primary residency where the lessee or sub-lessee is a natural person, rather than a business entity like an LLC. *See* Administrative Code § 11-3201 (defining "primary residence"). In response to another comment, DOF declined to incorporate a safe harbor provision into the definition of the term "arm's length transaction" in order to maintain administrative flexibility. DOF did clarify in this final rule that an arm's length transaction does not include one for which circumstances indicate a reasonable possibility that the lease or sub-lease was entered into primarily for the purpose of avoiding imposition of the surcharge. This revision recognizes that a property owner is not prohibited from considering the tax implications of their business affairs, but cannot orchestrate such affairs for the primary purpose of tax avoidance.
    - One commenter recommended that DOF clarify the meaning of the term "majority interest." DOF has included a definition of the term "majority interest" in this rule.
    - Several commenters inquired as to the applicability of the surcharge in regard to a specific fact pattern focused on the definition of the term "immediate family member." The term "immediate family member" is defined in Administrative Code § 11-3201, and the list of relationships included in this definition of "immediate family member" is exhaustive. *See* 19 RCNY § 62-01. Property owners or their representatives may request letter rulings regarding specific fact patterns pursuant to chapter 16 of title 19 of the Rules of the City of New York.
    - One commenter recommended that DOF create a streamlined process by which a licensed attorney may document that they represent a property owner regarding the surcharge. DOF accepted this recommendation and made a corresponding revision to the definition of the term "duly authorized representative." Because the initial notices of determination of surcharge established in 19 RCNY § 62-06, discussed below, include a password that allows submission of an appeal, this rule

provides that, for the purposes of submitting an appeal, a duly authorized representative includes any individual who has been provided such code and certifies that they are authorized to submit an appeal on behalf of a property owner.

- Section 62-02 of this chapter specifies that, for the purposes of determining whether a person is a "covered owner[,]" as defined in Administrative Code § 11-3201, property or shares of stock are "held" by a corporation, LLC or partnership only where such corporation, LLC or partnership holds an undivided fee interest in such property or such shares of a cooperative corporation representing such dwelling unit in their entirety. *See* Administrative Code § 11-3201. To prevent gamesmanship among owners of real property, this provision prevents individuals who hold a controlling interest in a business entity that holds only a fractional share of a property from receiving treatment as a "covered owner" for the purposes of establishing primary residency as set forth in Administrative Code § 11-3203. Several commenters opposed this policy outcome, characterizing it "overinclusive" and urging DOF to focus on beneficial, rather than actual, ownership of property. DOF declines to adopt these commenters' proposed reframing of this rule. Strict construction regarding entity ownership of property is generally consistent with DOF's approach to interpreting other residential tax exemptions under the law. *See, e.g.,* Real Property Tax Law §§ 459-c, 467, 467-a. This final rule clarifies that the ownership interests of shareholders, members, or partners of a corporation, LLC, or partnership may be aggregated together for the purposes of determining whether such shareholders, members or partners meet the majority ownership element of the definition of the term "covered owner." This final rule also clarifies that shareholders, members, or partners of a corporation, LLC, or partnership who collectively are covered owners of a property or shares of a cooperative corporation may only establish primary residency in a property or dwelling unit if such property or dwelling unit serves as the primary residence of such shareholders, members, or partners who, alone or in the aggregate, have a majority interest in the corporation, LLC, or partnership. In contrast, an individual (as opposed to a business entity) may potentially be a "covered owner" even if they own a fractional share of a property. *See* Administrative Code § 11-3201 (defining "covered owner"). Several commenters expressed a belief that this interpretation does not reflect the legislative intent of the applicable statute; however, the definition of "covered owner" included in Administrative Code § 11-3201, among other provisions, supports DOF's interpretation.
    - Several commenters posed a question regarding whether some but not all beneficiaries of a complex trust arrangement may be a "covered owner" for the purposes of application of the primary residency exemption set forth in Administrative Code § 11-3203. In order to establish status as a covered owner, state law requires that the primary resident beneficial owner or owners of a trust must be the sole beneficiaries of such trust. *See* Administrative Code § 11-3201 (defining "covered owner"). To address this comment, DOF is adding a provision to this section of the rule to clarify that contingent or future interests in a trust's estate held by a person will not be considered for the purposes of determining whether other persons are the sole beneficiaries of a trust. This provision aligns with State guidance regarding the determination of whether a person is the sole

beneficiary of a trust for real property tax purposes in other contexts. *See, e.g.,* 10 Op. Counsel SBRPS No. 25, 1996 WL 885794 (Mar. 19, 1996). Several commenters noted a grammatical ambiguity regarding whether multiple individuals can constitute trust beneficiaries for the purpose of establishing primary residency. *See* 19 RCNY § 62-06(b)(2)(v). DOF has clarified this provision. Lastly, one commenter inaccurately conflates the ownership requirements of trusts and other entities under different relevant statutes. *See* Tax Law § 1351(d)(4)-(5), (m), Administrative Code § 11-3201. These provisions operate separately, and do not allow the immediate family members of trust beneficiaries or groups of individuals to satisfy primary residency requirements.

  - Several commenters inquired regarding various circumstances in which an individual who is a trust beneficiary or holds a controlling interest in a business entity that itself holds a controlling interest in one or more other business entities may be a "covered owner" for the purposes of application of establishing primary residency. An individual cannot establish primary residency through a multi-tier business entity ownership structure. *See* Administrative Code §§ 11-3201, 11-3203.

- Section 62-03 of this chapter establishes that, for the purposes of the exclusion from the surcharge pursuant to Administrative Code § 11-3201 for an unsold residential cooperative dwelling unit or residential condominium dwelling unit subject to an offering plan under General Business Law § 352-e, a sale is deemed to have occurred at the time of conveyance of a deed for, or transfer of an economic interest in, such residential condominium dwelling unit or residential cooperative dwelling unit. *See* Administrative Code § 11-3205(i)(1)(iv). Several commenters recommended that DOF additionally exempt successor sponsors that acquire a project and continue to offer and sell units under the offering plans; residential projects proceeding under Attorney General no-action letters rather than filed offering plans, which are subject to the same substantive regulatory framework; and purchasers of bulk transfers of unsold inventory to affiliated entities, joint venture partners, or investors for continued offering. DOF declines to expand the definition of exempt properties under § 11-3201 to those that have been fully sold or are not subject to an offering plan.
- Section 62-04 of this chapter establishes a process for DOF to conduct audits related to the surcharge and impose penalties in certain circumstances where: (i) a certification or any documentation submitted to DOF contains inaccurate or misleading information that was material to the determination made regarding the imposition of such surcharge and was submitted negligently or in bad faith, or (ii) a condominium property has been divided into more than three units to avoid application of the surcharge and such division was made in bad faith. *See* Administrative Code § 3205(i)(2), (j); *see also* Charter § 1046. More specifically, this section establishes a process by which DOF:
  - may conduct audits to determine the amount of the surcharge owed by a covered property, including by collecting records and issuing subpoenas;
  - may notify a property owner of DOF's imposition of a penalty against such owner and such owner's right to appeal such penalty;

    - will conduct hearings regarding appeals of such penalties or delegate the duty to conduct such hearings to the Office of Administrative Trials and Hearings ("OATH") pursuant to a memorandum of agreement with OATH; and
    - through the DOF Commissioner, make a final determination regarding the imposition of penalties after review of a recommendation from the presiding hearing officer.
- The hearings conducted by DOF will be conducted, upon a petitioner's request, in writing by mail or a webform, in person, or through a simultaneous webcast. DOF will impose a penalty equal to 50% of such surcharge for submission of a misleading or inaccurate certification or documentation that, if accepted by DOF, would result in exemption from the surcharge. (In such a circumstance, the surcharge amount would also be reimposed, as applicable.) Where such a misleading or inaccurate certification or documentation, if accepted, would result in a surcharge in a lower amount than the amount of the surcharge that would be calculated if the certification or documentation submitted did not include misleading or inaccurate information, such penalty will instead be equal to 300% of the difference in surcharge that would result if such certification or documentation were accepted, provided that such penalty does not exceed 50% of the surcharge that would have been calculated. This provision promotes compliance with the surcharge by increasing the potential cost of evasion by property owners while ensuring that such property owners are afforded an opportunity to challenge the imposition of such penalties. One commenter suggested that the 50% cap on penalties over-penalizes small evasions of the surcharge, creating a perverse incentive for a property owner to submit inaccurate or misleading information that would achieve a greater undervaluation of their property. However, this 50% penalty cap is specified in state law and cannot be superseded by City rule. *See* Admin. Code § 11-3205(i)(2). After considering this comment, DOF has determined that no changes to the proposed rule are necessary.
- Section 62-05 of this chapter specifies, pursuant to Administrative Code § 11-3205(i), that DOF's rules relating to adjustments to assessed value for purposes of real property taxes, the correction of certain clerical errors and errors of description, and refunds of real property taxes under 19 RCNY chapters 24, 37, and 53 apply to calculations of market value and imposition and payment of the surcharge. This rule section leverages existing safeguard mechanisms to ensure that the surcharge is applied fairly to property owners. One commenter expressed concern regarding whether the process laid out in 19 RCNY chapter 24 can be used by a property owner to obtain a refund if a surcharge is ultimately canceled after it paid. Chapter 24 could be used to obtain such a refund.
- Section 62-06 of this chapter establishes the circumstances in which DOF, relying on records within its possession, will make an initial determination that a property constitutes a primary residence, thereby exempting such property from the surcharge pursuant to Administrative Code §§ 11-3202 and 11-3203. In response to comments, this final rule provides that DOF will use income tax data to make initial determinations of primary residency for the 2026/2027 fiscal year. This section establishes a process by which DOF will provide notice of such determination to a property owner.
    - Property owners determined to be subject to, and not exempt from, such surcharge are authorized to appeal a primary residency determination directly to the City's

Tax Commission in some circumstances, *see* Administrative Code § 11-3206, or are authorized to appeal such determination of primary residency to DOF. This rule establishes a time period to challenge an initial determination with DOF, which is generally calculated based on the time at which notice of an initial determination is transmitted. One commenter inquired when a notice would be considered "transmitted." Generally, the transmission of a letter or email notice occurs when it is sent via mail or transmitted electronically. Several commenters suggested that the time period to file a primary residency appeal, which generally begins upon transmission of a notice by DOF, is not sufficiently long. DOF has determined that any extensions to this time period are unnecessary because the time period incorporated into this rule appropriately balances due process and operational efficiency in implementing the surcharge. Several commenters incorrectly characterized the potential avenues available to property owners to challenge their surcharge. Property owners have an additional potential avenue to challenge the surcharge with the Tax Commission. *See* Administrative Code § 11-3206(f). One commenter posed a variety of practical issues regarding how DOF plans to issue notice of primary residency. 19 RCNY § 62-06(a)(4) provides that DOF may provide such notice electronically if the department has an email address for an owner of a covered property in records of the department and determines that communicating such notice by email would be practical and feasible. In implementing this rule for the 2026/2027 fiscal year, however, after considering DOF plans to mail a copy of the initial determination for such fiscal year to each property address for each property and dwelling unit in a cooperative corporation that DOF determines is subject to the surcharge. DOF also generally plans to mail such initial determination to certain owner mailing addresses of properties that DOF determines are subject to the surcharge, including addresses that DOF has identified as the residential cooperative corporation mailing addresses for cooperative corporations containing such a dwelling unit. DOF may, in its discretion, take additional measures to notify property owners of its initial determination. (Official notice of the surcharge amount is established pursuant to 19 RCNY § 62-07 and is discussed below.) Several commenters also requested that DOF clarify the information that will be included on the initial determination notice. (Some of the requested information regarding appeals procedures was already proposed to be included in the draft version of this rule.) DOF revised 19 RCNY § 62-06(a)(4) to provide that the value of the projected surcharge will also be included on the notice, as well as the deadline by which an appeal must be submitted to DOF. After weighing DOF's need for effectively administering this program, DOF does not intend to include any analysis in such notice for fiscal year 2026/2027 regarding the basis for its initial determination of primary residency.

- This rule establishes the forms of proof that allow such an owner to establish that such property is a primary residence of a covered owner, a primary residence of an immediate family member of a covered owner or the primary residence of a lessee or sub-lessee. An owner may demonstrate primary residency through various forms of proof, including through the presentation of certain documents

evincing that a person makes a property their home and other proof of occupancy. To account for circumstances in which a property or shares of cooperative are held by a trust, LLC, corporation or partnership, this rule also specifies the types of documents that DOF will accept as proof that an individual is a member of a LLC, shareholder of a corporation, partner of a partnership or beneficiary of a trust. These provisions will establish a process by which DOF will efficiently review and approve documentation demonstrating that an owner or a shareholder of a cooperative corporation qualifies for an exemption based on a determination that a property serves as the primary residence of such owner or shareholder. (One commenter mischaracterized the documentary proof set forth in 19 RCNY § 62-06(b)(2) as establishing standards of proof of primary residency for the purposes of "judicial appeals" but not "informal appeals." DOF would instead characterize this rule as establishing the proof standards for administrative appeals of primary residency determinations. *See* Administrative Code § 11-3203.) Based on a comment received, DOF has revised the final version of these rules to include additional pathways to document primary residency for immediate family members who are spouses and renters under month-to-month lease or sublease agreements, and to include a corresponding definition for the term "additional rental documents" codified in 19 RCNY § 62-01. (One other commenter suggested that the forms of documentary proof of immediate family relationships is unduly restrictive; however, DOF has concluded that the option to provide such proof through affidavits provides property owners adequate flexibility.) Several commenters expressed uncertainty as to which documents may be necessary for a property owner to provide when a property is leased or subleased to a primary resident. These documents are detailed in 19 RCNY § 62-06(b)(1)-(2). Several commenters expressed concern that property owners may not receive adequate documentation from lessees or sublessees to demonstrate their primary residency (or where a lessee or sublessee does not use a property as their primary residence); however, these matters must be resolved between private parties and will not be addressed in these rules. Several commenters suggested that DOF expand the types of proof that DOF will consider for establishing primary residency under 19 RCNY § 62-06(b)(2)(i). DOF declines to expand these sources of proof and disagrees with commenters who argue that these forms of proof are inconsistent with the applicable statute. The forms of proof identified in this provision strike a careful balance between allowing flexibility in the submission of proof and maximizing reliability and efficiency of reviews by DOF personnel. This provision also allows DOF to consider other proof of primary residency that it deems to be acceptable, which will accommodate unusual circumstances in which conventional proof of primary residency is unavailable. DOF does not believe 19 RCNY § 62-06(b)(2)(i)(B)(III) is fundamentally different from the process set forth in 19 RCNY § 50-06(b)(3), which one commenter cited as an alternative potential model for proof of primary residency, insofar as both provisions allow property owners a flexible opportunity to provide proof of primary residency to DOF. *See also* 19 RCNY § 50-05(c). In its final rule, DOF clarified that other proof of primary

residency can include evidence of occupancy, when paired with another listed form of proof. In regard to this commenter's observations regarding limitations on the value of voter registration cards for establishing primary residency, DOF notes that a voter registration card must be supplemented by one other form of proof to establish primary residency. *See* 19 RCNY § 62-06(b)(2)(i)(B). This commenter also argued that the rule provision detailing the use of a tax return for the purposes of establishing primary residency was inadequately specific. DOF disagrees; however, in an abundance of caution, DOF has revised the text of 19 RCNY § 62-06(b)(2)(i)(A) to provide that adequate proof of primary residency includes the "most recently filed state or federal personal income tax return *as of the date an appeal is filed*[.]" (Emphasis added.)

- One commenter argued that it is unclear whether a property qualifies for the exclusion where one dwelling unit in a class one property is used as a primary residence and another unit is not. DOF believes this issue is adequately clarified in 19 RCNY § 62-06(d).
- Several commenters suggested that individuals who own second homes in the City but who nevertheless maintain a primary residence at a different location within the City should be treated as exempt from the surcharge. This reading is not supported by the text of the law. *See* Administrative Code §§ 11-3201, 11-3203.
- The final version of these rules also clarifies that if an applicant challenges an initial determination regarding primary residency with the Tax Commission pursuant to Administrative Code § 11-3206(b)(2), then DOF will not consider any appeal of such primary residency submitted to DOF pursuant to 19 RCNY § 62-06, and if the Commissioner of DOF has made any determination with regard to such an appeal, such determination shall have no effect. The purpose of this change is to prevent forum shopping by property owners and avoid the issuance of multiple—potentially inconsistent—administrative decisions regarding the same matter.
- One commenter also suggested that two or more tenant-stockholders of a cooperative corporation should be authorized to join their appeals together for hearings regarding primary residency. The Tax Commission's administrative procedures are outside of the scope of this rulemaking, and the DOF primary residence appeal challenge procedure does not involve hearings; rather, it is a written appeals process. *See* Administrative Code § 11-3203; 19 RCNY § 62-06.
- One commenter asked whether a mechanism exists by which a property owner may disclose that their property does not serve as a primary residence. In light of this comment, DOF included a new subdivision 19 RCNY § 62-06(f) in the final version of this rule, so that property owners may make such a self-disclosure in writing.
- Various commenters requested that DOF add certain exemptions to the primary residency requirement. After considering these comments, DOF added a new provision, 19 RCNY § 62-06(b)(3), to the final rule that deems an individual's primary residency to continue for one year immediately following their death, hospitalization or temporary stay in a rehabilitation or nursing home. *See* Administrative Code § 11-3205(i)(1)(i).

- A commenter inquired regarding how to determine what email address DOF has on file for the purposes of 19 RCNY § 62-06(a). A property owner may contact DOF to determine which email address is associated with a property; however, as noted above, for the fiscal year beginning on July 1, 2026, the notice will be sent via mail. This commenter also inquired whether guidance materials regarding filing an appeal will be made available by DOF. As noted above, DOF intends to disseminate such materials; however, this is outside the scope of this rulemaking.
- One commenter inquired whether an individual may have multiple primary residences. An individual cannot have multiple primary residences.
- One commenter requested that DOF further clarify who may file a primary residency appeal—particularly with respect to managing agents of cooperative corporations—and allocate liability when errors in filing such appeals are made. This rule already addresses this point, clarifying that a "duly authorized representative," as such term is defined in 19 RCNY § 62-06(b), may file such an appeal. *See* 19 RCNY § 62-01. Additionally, statutory provisions authorize cooperative corporations to file appeals in relation to the surcharge. *See* Administrative Code §§ 11-3201, 11-3203. DOF does not find that any further changes to this final rule are warranted.
- One commenter inquired whether personal information provided to support a claim of primary residency is subject to tax secrecy statutes. *See, e.g.,* Tax Law § 697(e), Real Property Tax Law § 467-a(4). While DOF takes the privacy of personal information very seriously, this information, when provided by a taxpayer in the context of the surcharge, is not subject to any statutory tax secrecy provisions. *C.f.* Administrative Code § 11-3207.

- Section 62-07 of this chapter establishes, pursuant to the authority set forth in Administrative Code § 11-3205 (c) and (i)(1)(iii), that the statement of account required pursuant to Administrative Code § 11-129 and the assessment roll required to be published pursuant to chapter 58 of the Charter collectively constitute notice of the imposition of the surcharge, except that for the fiscal year beginning on July 1, 2026, the assessment roll and the tax bills for payment for such fiscal year constitute such notice. DOF added subdivision (b) to this section in the final version of this rule to clarify the process by which DOF will issue an addendum to the roll for the purposes of the surcharge in accordance with Administrative Code § 11-3205 for the fiscal year beginning July 1, 2026. DOF also added subdivision (c) to this section to clarify that, notwithstanding any other provision of this section 62-07, for the purposes of the surcharge, residential cooperative dwelling units may be identified on an assessment roll by their street address and unit number. This section allows DOF to administer the surcharge to the greatest extent practicable in the same manner as it administers real property taxes, while taking into account the differences between the surcharge and real property taxes, as well as differences between residential cooperative dwelling units and other real property. This section allows DOF to add any other information on an assessment roll. Because the surcharge is based on market value, not assessed value, DOF notes that these rolls are required to include the applicable market values of properties, not assessed values.

    - One commenter inquired whether surcharge amounts will be included on the DOF website and whether such website constitutes notice of the surcharge. Notice of the surcharge is discussed in greater detail above; however, Administrative Code § 11-3205(a) requires surcharge amounts to be included on the statement of account for a property. Statements of account are generally included on a publicly accessible page on the DOF website.
    - One commenter inquired regarding how the valuation of a dwelling unit within a residential cooperative corporation can be viewed. The valuation of residential cooperative dwelling units subject to the surcharge will be included in the rolls described above and will be included in the notices provided pursuant to 19 RCNY § 62-06, discussed above.
- Section 62-08, which was included in the final version of this rule, after considering public comments, clarifies that the department will evaluate the value and determine the applicability of the surcharge, including but not limited to whether a property is used as a primary residence or constitutes an excluded property, as of the taxable status date for each fiscal year. *See* Administrative Code §§ 11-3201, 11-3203. Several commenters suggested that DOF should also allow property owners to establish that the surcharge should not apply based on facts that develop after the taxable status date, including where a property owner leases a property shortly after the taxable status date. Several commenters expressed concern regarding circumstances in which an owner of multiple properties is renovating or rehabilitating one such property at the time of the taxable status date, but that property is occupied sometime after the taxable status date. Other commenters suggested that DOF include a provision in these rules to exempt residential condominium and cooperative units from the surcharge where the purchaser of such unit or the share associated with such unit, as applicable, plans to occupy the unit as their primary residence, but has not done so by the taxable status date. *See* Administrative Code § 11-3201. One commenter suggested more specifically that DOF adopt an exception to the surcharge akin to the "contemplated use" doctrine authorized by Real Property Tax Law § 420-a(3)(a) in the context of the real property tax. DOF declines to make the changes suggested by these commenters. State law bases the determination of primary residency on a property's use as of the taxable status date. *See* Administrative Code § 11-3201 (defining "primary residence").
    - Several commenters suggested that measurement of whether an individual meets the criteria for primary residency retrospectively from the period preceding the taxable status date but applying the surcharge for the successive fiscal year may create some practical disconnect. This is a common feature of real property tax benefit provisions and is an intended element of the statute authorizing the surcharge. *See* Administrative Code §§ 11-3201, 11-3205.

Various commenters expressed concern that unpaid surcharge amounts or penalties would create a liability for an entire cooperative corporation, and that the statutory provision relating to allocation of the surcharge to an individual shareholder, pursuant to Administrative Code § 11-3205(f), does not suit the needs of cooperative corporations. These commenters argued that the surcharge inappropriately charges cooperative corporations with a tax collection function, and

saddles such cooperative corporations with the obligations as the guarantor of their shareholders' surcharge liability. These commenters generally recommended delaying imposition of the surcharge, changing the application of the thresholds of the surcharge applicability, and restructuring the tax, so that it does not create a lien on a cooperative corporation's property as a whole. The thresholds, timeline for implementation and enforcement structure of this surcharge are established by state law. *See* Administrative Code §§ 11-3202, 11-3205. These state law provisions cannot be amended through a City rulemaking process. Instead, cooperative corporations could consider amending their proprietary leases to accommodate these charges so that liability is allocated in accordance with Administrative Code § 11-3205(f). DOF will not promulgate a rule that would seek to directly supersede the terms of these proprietary leases or cooperative corporation governance documents and regulate the payment obligation of shareholder to their cooperative corporations. Additionally, DOF will not consider any related legislative proposals in this rulemaking process. However, DOF is willing to engage with individuals and organizations representing cooperative properties following this rulemaking to consider any additional policy recommendations.

Multiple commenters suggested DOF should not impose liabilities or tax liens associated with the surcharge on subsequent purchasers of properties. DOF declines to make changes in response to these comments. State law provides that the surcharge is imposed on a property, rather than a particular owner of property. *See* Administrative Code § 11-3202. The surcharge, along with any penalties and interest, constitutes a lien on the property. Administrative Code § 11-3205(b). Parties transacting for an interest in a real property may structure their transactional documents to allocate the risk associated with the potential retroactive imposition of the surcharge due to a determination that a property did not serve as a primary residence. DOF will continue to consider whether future changes in relation to issues raised by these commenters are appropriate.

Several comments related to valuation methodology. One commenter inquired how market values are generally calculated for the purposes of the surcharge. State law provides that phase one market values for purposes of the surcharge are based on DOF market values calculated for real property tax purposes. The valuation methodology for the surcharge is authorized to change for the fiscal year beginning on July 1, 2028. Administrative Code §§ 11-3201, 11-3202 to 11-3204. Property values for the purposes of the surcharge will be included on an assessment roll, as described above. One commenter expressed disagreement with, and constitutional concerns relating to, the phase one valuation methodology for cooperative properties. This valuation methodology, including the use of share ratios, is established by provisions of state statute. *See* Administrative Code §§ 11-3201, 11-3202. Some commenters expressed interest in challenging property valuations, including based on the cooperative residential dwelling unit share ratios used to calculate valuation. The statutory framework implementing the surcharge allows for valuation challenges. *See* Administrative Code § 11-3206; *see also* 19 RCNY § 62-05. One commenter suggested that the City allow individual shareholders of residential cooperative dwelling units to challenge their valuation for the purposes of the surcharge. These valuation challenges are already authorized by law. *See* Administrative Code §§ 11-3201, 11-3206 (defining the term "owner" and describing this challenge procedure). Other commenters developed highly specific policy proposals by which property owners would be able to use sales price data to rebut or parametrically limit phase one valuations of residential cooperative dwelling units and

condominium units. These policy proposals conflict with the valuation methodologies authorized by the legislature for phase one and phase two. *See* Administrative Code §§ 11-3201, 11-3202. Because these are essentially legislative policy proposals, they are outside the scope of this rulemaking. Several other commenters focused on the fiscal years beginning on or after July 1, 2028 and regarding the collection and use of sales data to calculate phase two valuations. Some expressed concern about using a sales-based methodology to value cooperative properties. DOF has determined that phase two valuation methodology is not necessary to discuss at this stage of the rulemaking process.

Other recommendations were similarly unripe. Another commenter suggested that DOF adopt a streamlined approach for property owners who have previously been determined to be primary residents to avoid successive annual submissions of proof of primary residency in future years. Such a structure has been used with respect to other benefits administered by DOF. *See, e.g.,* Real Property Tax Law § 467-b(4)(a)(2). DOF acknowledges the potential utility of such a policy, and will consider it as the surcharge is implemented; however, DOF has determined that it is not necessary to address these matters in this initial rulemaking process.

DOF notes in regard to various comments that class one properties with mixed-use characteristics are not exempt from the surcharge. Some commenters suggested that DOF create an exemption for financial institutions that take possession of properties through foreclosure proceedings. Another commenter suggested that DOF prorate the surcharge for partial years in which a property does not constitute a primary residence. Such exemptions are not authorized by law.

One commenter suggested that administration of the surcharge violates various fair housing laws. DOF disagrees and does not find that further changes to the rule are warranted in response to this comment.

One commenter recommended that DOF establish an additional expedited letter ruling process specific to the surcharge. DOF declines to accept this recommendation. DOF plans to respond to letter ruling requests regarding the surcharge in the same manner as other taxpayers seeking clarification under 19 RCNY ch. 16.

Some commenters inquired regarding the Tax Commission and the State courts system's roles and procedures in resolving surcharge disputes. Another commenter expressed opposition to the general concept of graduated taxation. These topics are outside the scope of this rulemaking.

DOF added unconsolidated section two of this final rule to clarify the date on which these rules take effect. In addition to imposing the surcharge and requiring that DOF administer the surcharge, chapter 59 of the laws of 2026 required that the surcharge be imposed on properties in the fiscal year beginning on July 1, 2026. Accordingly, pursuant to a finding that there is a substantial need for the earlier implementation authorized by Charter § 1043(f)(1)(d), this rule takes effect immediately.

New material is underlined.
[Deleted material is in brackets.]
"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Rule Amendment

Section 1. Title 19 of the Rules of the City of New York is amended by adding a new chapter 62 to read as follows:

Chapter 62:

Surcharge on Property that Does Not Serve as a Primary Residence

§ 62-01 Definitions.

For the purposes of this chapter, the following terms have the following meanings. The terms not defined in this section have the meanings set forth in section 11-3201 of the administrative code, except as otherwise provided in this chapter.

Additional rental documents. The term “additional rental documents” means a utility bill in a lessee’s or sub-lessee’s name issued within one year prior to the date of submission, an unexpired renter’s insurance policy that such lessee or sub-lessee is party to, or proof of rental payment to the owner of a property.

Arm's length transaction. The term "arm's length transaction" means a lease or sub-lease for a covered property or a dwelling unit in a covered property entered into in good faith and for valuable consideration that reflects the fair market rental value of such covered property or dwelling unit between two informed and willing parties, where neither is under any compulsion to participate in the transaction and circumstances do not indicate a reasonable possibility that the lease or sub-lease was entered into primarily for the purpose of avoiding imposition of the surcharge.

Commissioner. The term “commissioner” means the commissioner of the department or their designee.

Duly authorized representative. The term “duly authorized representative” means:

1. any person who files a power of attorney with the department on a form designated by the department that authorizes such person to act on behalf of an owner;

2. any licensed attorney who submits an affidavit indicating that such attorney represents an owner with regard to the applicable matter;

3. for the purposes of submitting an appeal pursuant to 19 RCNY § 62-06(b), any individual who provides the password included in the initial notice of primary residency determination and certifies that they are authorized to submit an appeal on behalf of a property owner;

4. with respect to a partnership, a general partner of such partnership;

5. with respect to a limited liability company, a member of such company;

6. with respect to a corporation, an officer of such corporation; or

7. a trustee of a trust.

Economic interest. The term "economic interest" means shares of stock in a corporation that owns a covered property, including shares of stock in a cooperative corporation entitling the holder of such shares to a proprietary lease in a dwelling unit; the ownership of an interest or interests in a partnership, limited liability company or other unincorporated entity that owns a covered property or such shares in a cooperative corporation; and the ownership of a beneficial interest or interests in a trust that owns a covered property or such shares in a cooperative corporation.

Majority interest. The term “majority interest” means:

1. In the case of a corporation, greater than 50% of the total combined voting power of all classes of stock of such corporation, or greater than 50% of the total fair market value of all classes of stock of such corporation; and

2. in the case of a partnership or limited liability company, entitlement to greater than 50% of the capital or profits of such partnership or limited liability company.

OATH. The term “OATH” means the office of administrative trials and hearings.

Petitioner. The term “petitioner” means an owner of a covered property or a duly authorized representative in relation to a petition that was submitted timely pursuant to subdivision (d) of section 62-04 of this chapter.

§ 62-02 Corporate owners of a covered property.

(a) For purposes of determining whether a person is a covered owner under chapter 32 of title 11 of the administrative code, real property classified as class one or a residential condominium dwelling unit is held, or shares of stock in a cooperative corporation entitling the holder of such shares to a propriety lease in a dwelling unit are held, by a partnership, corporation or limited liability company only where such partnership, corporation or limited liability company holds an undivided fee interest in such property or holds all such shares of stock. A partner or partners, shareholder or shareholders or member or members of such partnership, corporation, or limited liability company, respectively, who individually or jointly hold a majority interest in such partnership, corporation or limited liability company shall only be deemed to be a covered owner or covered owners for the purposes of chapter 32 of title 11 of the administrative code if such partnership, corporation or limited liability company holds an undivided fee interest in such property or holds all such shares of stock.

(b) Partners of a partnership, shareholders of a corporation, or members of a limited liability company who are covered owners of a covered property or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, shall only be considered primary residents of such property or dwelling unit under chapter 32 of title 11 of the administrative code if such property or dwelling unit serves as the primary residence of such partners, shareholders, or members holding a majority interest in such partnership, corporation, or limited liability company.

(c) For purposes of determining whether a person is a covered owner under chapter 32 of title 11 of the administrative code, contingent or future interests in a trust's estate will not be considered in determining whether such person is the sole beneficiary of such trust.

§ 62-03 Sale or transfers of property.

For purposes of determining whether a residential condominium dwelling unit or residential cooperative dwelling unit constitutes excluded property, as defined in section 11-3201 of the administrative code, the date of sale of a residential condominium dwelling unit, or a transfer of an economic interest in a residential cooperative dwelling unit, is the date of:

(a) conveyance of a deed for such residential condominium dwelling unit; or

(b) transfer of an economic interest in such residential condominium dwelling unit or such residential cooperative dwelling unit.

§ 62-04 Investigations and penalties.

(a) *Audit authority*. The commissioner may conduct an audit for the purposes of determining the amount of the surcharge owed by a covered property, including any determination relating to primary residence, and any certification or documentation of primary residency submitted to the department, provided that any audit of such certification or documentation shall be conducted within six years of the submission of such certification or documentation.

(b) *Collection of records and subpoena*. The commissioner may:

1. compile any materials necessary to conduct such audit; and

2. subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to an audit initiated pursuant to subdivision (a) of this section.

(c) *Transmission of notice of penalty*. 1. The commissioner may transmit a notice of penalty to any owner of a covered property where the commissioner determines that: (i) any certification or documentation submitted to the department in connection with the imposition of the surcharge on a covered property contains inaccurate or misleading information that: (A) is material to the determination of the imposition of such surcharge, including a determination relating to primary residence; and (B) was submitted negligently or in bad faith; or (ii) a covered property that is a residential condominium unit has been divided into more than three units to avoid application of such surcharge and the owner of such covered property has made such division in bad faith. Such notice shall include the amount of such penalty pursuant to subdivision (g) of this section.

2. The commissioner shall transmit such notice to:

(i) the address of the owner of record of such covered property filed with the department, provided that in the case of a covered property that is a residential cooperative property, such notice shall be transmitted to both the owner of record of such residential cooperative property and the owner of record of the applicable residential cooperative dwelling unit; and

(ii) the address of any person who has registered with respect to such covered property pursuant to Administrative Code section 11-309.

(d) *Filing of a petition for a hearing.*

1. An owner of a covered property that is subject to a notice of penalty pursuant to this section may request a hearing by filing a petition with the department no later than 30 days from the date of transmission of such notice on a form designated by the department. Failure to file a petition for a hearing within such period shall result in the imposition of a penalty pursuant to subdivision (g) of this section.

2. A petition may be filed only by an owner of a covered property or by a duly authorized representative of the owner, provided that that in the case of a covered property that is a residential cooperative property, a petition may be filed by the owner of record or duly authorized representative of either such residential cooperative property or the applicable residential cooperative dwelling unit.

(e) *Delegation to the office of administrative trials and hearings.*

1. If, prior to issuance of a notice of penalty, the commissioner and OATH enter into a memorandum of understanding authorizing OATH to conduct hearings in accordance with the procedures set forth in title 48 of the rules of the city of New York and such memorandum of understanding has not been terminated, then upon receipt of a petition filed in a timely manner pursuant to subdivision (d) of this section: (i) the department shall transmit such petition to OATH; and (ii) following a hearing on such notice of penalty conducted in accordance with such title, the presiding hearing officer shall make a recommendation to the commissioner with respect to whether to impose penalties pursuant to this section. The commissioner shall make a determination regarding whether to impose penalties pursuant to this section no later than 30 days after the receipt of such recommendation, provided that the failure of the commissioner to make a determination within such time period shall not result in a waiver of such penalties. The commissioner shall transmit such determination to both the owner and the duly authorized representative of the owner, if any, at the addresses provided in the petition.

2. If the commissioner and OATH have not entered into a memorandum of understanding pursuant to paragraph 1 of this subdivision prior to issuance of a notice of penalty, or if such memorandum of understanding has been terminated prior to such issuance, any such hearing shall be conducted in accordance with the provisions of subdivision (f) of this section.

(f) *Conduct of hearings by the department.*

1. *Designation of hearing officer.* The commissioner shall designate a person to serve as hearing officer to hear petitions filed pursuant to these rules. Such person need not be an employee of the department.

2. *Representation of petitioners.* A duly authorized representative may appear on behalf of an owner at a hearing. If an owner is an individual, such individual may appear on their own behalf.

3. *Proof of authorization.* Documentation demonstrating that an individual is a duly authorized representative or such individual's status as a duly authorized representative is revoked must be filed with the hearing officer with or prior to such individual's appearance or submission of documents on behalf of an owner.

4. *Consolidation, joinder, severance.*

(i) Any party to a hearing may request the consolidation of hearings relating to the same owner or property.

(ii) Any party may request the severance of a matter in a hearing relating to a property when such property is not owned by the same owner or identical issues of fact or law are not involved.

(iii) Consolidation, joinder or severance of any case or issue shall be permitted at the discretion of the hearing officer.

5. *Ex parte communications.* No party to a hearing may make an *ex parte* communication to a hearing officer with respect to the merits of such hearing.

6. *Burden of proof.* The department shall have the burden of establishing each fact relevant to a determination of the matters reviewable pursuant to this subdivision by a preponderance of the evidence.

7. *Hearings without personal appearance.* A petition for a hearing without a personal appearance may be made by mail or on the department's website in accordance with this paragraph.

(i) A hearing by mail or website may be conducted by submission of a paper or electronic form, as applicable, if a petition filed pursuant to subdivision (d) of this section indicates that the petitioner wishes to conduct a hearing without a personal appearance. Such form must be received at an address or web portal designated by the department no later than 30 days following submission of such petition. Attached to such form, the petitioner may include legal memoranda, additional documents or other material in support of the owner's position and proof that the individual submitting such form is authorized to submit such petition pursuant to paragraph 2 of this subdivision.

(ii) Upon receipt of a copy of the form and any materials attached thereto, the department may also submit legal memoranda, additional documents or other materials to the hearing officer to support the department's position within a reasonable time as determined by the hearing officer.

(iii) At any time after receipt of a petition indicating a request for a hearing without personal appearance, the hearing officer may by subpoena require the production of any relevant books, papers and documents, upon written request of a petitioner or the department.

(iv) At any time after receipt of submissions by the petitioner and the department pursuant to subparagraphs (i) and (ii) of this paragraph, a hearing officer may give both the department and the petitioner the opportunity to submit additional materials and legal memoranda in support of their positions.

8. *Hearing in person or through simultaneous electronic appearance.* If a petition submitted pursuant to subdivision (d) of this section indicates that the petitioner wishes to conduct a hearing in person or through simultaneous electronic webcast, the following provisions shall apply to such hearing:

(i) The hearing officer may by subpoena require the production of any relevant books, papers and documents upon written request of a petitioner or the department.

(ii) The hearing officer shall be authorized to:

(A) administer oaths and affirmations;

(B) dictate the course of the hearing, set the time and place for conducting the hearing, and fix the time and manner for filing of legal briefs, memoranda and other documents;

(C) rule upon offers of proof and receive relevant evidence;

(D) require the parties at any time during the hearing to state their respective positions in support of any issues under consideration in the matter;

(E) question any party or witness for the purpose of clarifying the record; and

(F) take any other action that the hearing officer determines is appropriate to conduct a speedy and expeditious hearing.

(iii) The hearing officer shall set a schedule for the hearing as soon as is practicable. The parties shall be given notice of the hearing date no fewer than 20 days prior to such date. The notice shall include the time, place, and nature of the hearing, including whether the hearing will be conducted through simultaneous electronic webcast. The hearing officer will not consider a request for a postponement of a hearing date unless a written application setting forth good cause for the postponement is received by the hearing officer within 10 days after transmission of the hearing notice. In the event of an emergency, however, a postponement may be considered on shorter notice. A postponement may be granted only in writing by the hearing officer.

(iv) At the hearing, the parties shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses.

(v) In the discretion of the hearing officer, technical rules of evidence need not be applied. However, the rules of privilege recognized by law shall apply. Objections to evidentiary offers may be made and shall be noted in the record.

(vi) Hearings shall be transcribed verbatim or recorded by electronic means determined by the hearing officer. A copy of the transcript or recording shall be provided to all parties within a reasonable time after the hearing is concluded.

9. *Hearing officer recommendation.*

(i) Following a hearing conducted pursuant to either paragraph 7 or 8 of this subdivision, the hearing officer shall make a recommendation to the commissioner regarding whether any documentation or certification was submitted as described in paragraph (1) of subdivision (c) of

this section or a division of a residential condominium unit has been made as described in such paragraph and a recommendation regarding the imposition of a penalty pursuant to this section. Such recommendation shall be based on any relevant findings of fact and conclusions of law, upon consideration of the record as a whole and as supported by the evidence entered by the parties. A copy of the determination shall be mailed to the petitioner and to the petitioner's duly authorized representative, if any.

(ii) If a petitioner fails to appear at a hearing and no written postponement has been granted pursuant to subparagraph (iii) of paragraph 8 of this subdivision or fails to make a submission required by paragraph 7 of this subdivision within a timeframe designated by these rules or an order of the hearing officer, the hearing shall be concluded and the hearing officer shall make a recommendation to the commissioner for final determination based on the record, if any, previously made.

10. *Commissioner determination.*

The commissioner, upon review of a hearing officer's recommendation made pursuant to paragraph 9 of this subdivision, shall render a final determination regarding the imposition of a penalty pursuant to this section within 30 days of the receipt of such recommendation, provided that the failure of the commissioner to make a determination within such period shall not result in a waiver of such penalties. Notwithstanding any provision of this chapter to the contrary, the commissioner shall not designate any individual to make such determination who audited or investigated the owner or property subject to such penalties, issued the notice of penalty, or represented the department in a hearing regarding such penalties. A copy of the determination shall be mailed to both the petitioner and the petitioner's duly authorized representative, if any. Such determination shall constitute a final agency determination and is subject to challenge pursuant to Article 78 of the civil practice law and rules.

(g) *Penalty amounts.* If the commissioner determines that any certification or documentation submitted to the department in connection with the imposition of the surcharge was submitted, or a residential condominium was subdivided as described in paragraph (1) of subdivision (c) of this section, and any such subdivision, certification or documentation, if accepted as accurate by the department, would result in:

1. the surcharge not being imposed upon such property, a penalty of 50% of the surcharge applicable to such property for such fiscal year shall be imposed, and the commissioner shall reinstate such surcharge against such property for such fiscal year; or

2. the valuation of a property pursuant to chapter 32 of title 11 of the administrative code at a lower amount than would otherwise have been assigned by the department, a penalty equal to 300% of the amount of the difference in surcharge that would result from such lower valuation shall be imposed, provided that such penalty shall not exceed 50% of the surcharge applicable to such property.

§ 62-05 Corrections and refunds.

(a) For any fiscal year beginning on or after July 1, 2027, the market value of a covered property determined pursuant to chapter 32 of title 11 of the administrative code may be amended in accordance with the procedures set forth in chapter 37 of this title of the rules of the city of New York.

(b) An owner may petition for correction of a clerical error or error in description related to the surcharge in accordance with the provisions of chapter 53 of this title of the rules of the city of New York.

(c) The department may make refunds of overpayments and double payments of the surcharge in accordance with the provisions of chapter 24 of this title of the rules of the city of New York.

§ 62-06 Primary Residency.

(a) *Initial determination*.

1. The department shall make, on an annual basis, an initial determination that a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, that has a market value amount equal to or greater than the applicable phase one or phase two market value thresholds established in section 11-3202 of the administrative code, is not a primary residence.

2. Unless credible information in the possession of the department, including but not limited to information collected by the department in administering the abatement authorized pursuant to section 467-a of the real property tax law, indicates otherwise, the department will make a determination that a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, is used as primary residence if:

(i) an individual that the department has identified as a covered owner indicated in their state or federal personal income tax return for the most recent income tax year for which data is sufficiently available to the department that such covered property, or, in the case of a covered property that is a residential cooperative property, such residential cooperative dwelling unit: (A) was such covered owner's permanent home address; or (B) received a tax credit pursuant to subsection (eee) of section 606 of the tax law; or

(ii) an individual that the department has identified as a covered owner received a tax exemption pursuant to sections 425, 458, 458-a, 458-b, 459-c, 462 or 467 of the real property tax law for such covered property for the fiscal year beginning immediately prior to the date of transmission of a notice of determination pursuant to paragraph (4) of this subdivision.

3. For purposes of a surcharge imposed in a fiscal year beginning on or after July 1, 2027, if the department does not make an initial determination that a property is a primary residence pursuant to paragraph (2) of this subdivision, the department may make a determination whether a property is a primary residence using other information available to such department, and based on factors including whether:

(i) a covered owner occupied such covered property or residential cooperative dwelling unit for a majority of days during the immediately prior calendar year; and

(ii) a covered owner indicated that such covered property or residential cooperative dwelling unit is such covered owner's permanent residence in other documents previously submitted to the city.

4. The department shall transmit notice of such determination of primary residence to each owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, in writing no later than February 15 of each year, provided that for the fiscal year beginning on July 1, 2026, such notice shall be transmitted no later than August 30, 2026. Such notice shall include information regarding the manner in which an owner may appeal such initial determination pursuant to subdivision (b) of this section. Such notice will include the surcharge amount based on the phase one or phase two market value of the covered property, as applicable. The department may provide such notice electronically if the department has an email address for an owner of a covered property in records of the department and determines that communicating such notice by email would be practical and feasible, provided that for the fiscal year beginning on July 1, 2026, the department will provide such notice via mail. Failure by the department to provide this notice shall not affect the validity of the imposition of the surcharge authorized by chapter 32 of title 11 of the administrative code.

(b) *Appeal.*

1. An owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, or a duly authorized person may file an appeal of any initial determination made pursuant to subdivision (a) of this section no later than 30 days after the date that notice of such initial determination is transmitted pursuant to paragraph (4) of such subdivision, or if no such notice is transmitted by DOF, no later than 30 days after such surcharge appears on the assessment roll. Such owner must file such appeal in writing through an electronic portal designated by the department. Such appeal must include a certification that such property or dwelling unit is used as a primary residence and one or more of the following:

(i) proof that such covered property or dwelling unit is the primary residence of a covered owner pursuant to subparagraph (i) of paragraph (2) of this subdivision, provided that with respect to a beneficiary of a trust who is a covered owner pursuant to paragraph (iv), or a partner, shareholder or member who is a covered owner pursuant to paragraph (v), of the definition of covered owner in section 11-3201 of the administrative code, such appeal must also include proof set forth in subparagraph (iv) or (v) of paragraph (2) of this subdivision, as applicable;

(ii) proof that such covered property or dwelling unit is the primary residence of an individual pursuant to subparagraph (i) of paragraph (2) this subdivision and proof that such individual is the immediate family member of a covered owner pursuant to subparagraph (ii) of such paragraph, provided that with respect to a beneficiary of a trust who is a covered owner pursuant to paragraph (iv) or a partner, shareholder or member who is a covered owner pursuant to paragraph (v) of the definition of covered owner in section 11-3201 of the administrative code,

such appeal must also include proof set forth in subparagraph (iv) or (v) of paragraph (2) of this subdivision, as applicable; or

(iii) proof that such covered property or dwelling unit is the primary residence of an individual pursuant to subparagraph (i) of paragraph (2) of this subdivision and proof that such individual is a lessee or sub-lessee of such property or dwelling unit pursuant to subparagraph (iii) of such paragraph.

2. (i) Unless credible information in the possession of the department indicates otherwise, proof of the primary residence of a person who is a covered owner, an immediate family member of a covered owner, a lessee or a sub-lessee includes documents establishing the location of such person's home, including:

(A) proof that a covered property or residential cooperative dwelling unit was listed as the permanent home address of such person on such person's most recently filed state or federal personal income tax return as of the date the appeal is filed; or

(B) two or more of the following documents, provided that any such documents indicate residency at a covered property on or prior to the taxable status date:

(I) a photo-copy of the front and back of an unexpired New York state department of motor vehicles driver's license, learner's permit or non-driver identification card or other record or United States department of state issued driver's license or non-driver identification card indicating that the covered property or residential cooperative dwelling unit is such person's residence;

(II) a voter identification card issued by the New York city board of elections; or

(III) other proof of primary residency, including proof of occupancy for the 12-month period prior to the applicable taxable status date, that is determined to be acceptable by the department.

(ii) Unless credible information in the possession of the department indicates otherwise, proof that an individual is an immediate family member of a covered owner includes one or more of the following:

(A) one or more birth certificates indicating that such individual is an immediate family member of such covered owner;

(B) affidavits from both such covered owner and such individual indicating that such persons are immediate family members; or

(C) a marriage certificate.

(iii) Unless credible information in the possession of the department indicates otherwise, proof that that an individual is a lessee or sub-lessee of a covered property or residential cooperative dwelling unit includes:

(A) an unexpired lease or sub-lease for one or more units within such covered property or dwelling unit that is entered into through an arm's length transaction and at least one additional rental document; or

(B) for a month-to-month lessee or sublessee, an affidavit from both the property owner and the lessee or sublessee confirming such lease or sublessee arrangement has been entered into through an arm's length transaction and two or more additional rental documents.

(iv) Unless credible information in the possession of the department indicates otherwise, proof that that an individual is a partner, member, or shareholder of a partnership, limited liability company, or corporation with a majority interest in such partnership, limited liability company or corporation must include:

(A) the operating agreement for such limited liability company, the partnership agreement for such partnership, or the articles of incorporation of such corporation; and

(B) an affidavit from an officer of such partnership, limited liability company or corporation indicating that such individual has a majority interest in such partnership, limited liability company or corporation.

(v) Unless credible information in the possession of the department indicates otherwise, proof that that an individual is a sole beneficiary or individuals are sole beneficiaries of a trust includes:

(A) a copy of the trust agreement indicating that such individual is the sole beneficiary or individuals are sole beneficiaries of such trust; and

(B) an affidavit indicating the same from a trustee of such trust.

3. Notwithstanding any provision of this section to the contrary, a covered owner, immediate family member of a covered owner, lessee or sub-lessee of a covered property or, in the case of a residential cooperative property, a residential cooperative dwelling unit, will be deemed to continue to be a primary resident of such covered property or dwelling unit for a period of one year immediately following their death or during a continuous period of hospitalization or a temporary stay in a nursing home or rehabilitation facility if the owner of such covered property or dwelling unit, or the estate of such owner, as applicable, provides:

(i) proof sufficient to the department of such death, hospitalization or temporary stay in a nursing home or rehabilitation facility; and

(ii) proof of primary residency set forth in subparagraph (i) of paragraph 2 of this subdivision for the period immediately preceding such death, hospitalization or temporary stay in a nursing home or rehabilitation facility.

(c) *Review of appeals.* 1. The commissioner shall review the merits of any appeal submitted within the time period set forth in subdivision (b) and shall transmit to such owner a notice of determination to the email address associated with such appeal. Notwithstanding any provision of this chapter to the contrary, the commissioner shall not designate any individual to make such determination who made the initial determination pursuant to subdivision (a) of this section. Any denial of such appeal shall be a final determination and may be challenged in accordance with the procedures set forth in section 11-3206 of the administrative code.

2. Where an owner fails to file an appeal or fails to provide proof of primary residence pursuant to subdivision (b) of this section, the initial determination made by the department pursuant to subdivision (a) of this section shall constitute a final determination of such department and shall not be subject to challenge pursuant to section 11-3206 of the administrative code, unless such owner has challenged such initial determination of primary residence pursuant to paragraph two of subdivision (b) of section 11-3206 of the administrative code.

(d) *Effect of an exclusion.* Satisfactory proof of primary residency of one or more dwelling units in a covered property for a fiscal year is sufficient to exclude such property from the surcharge for such fiscal year, except that, in the case of a residential cooperative property, satisfactory proof of primary residency of a residential cooperative dwelling unit in such residential cooperative property for a fiscal year is sufficient to exclude only such residential cooperative dwelling unit from the surcharge for such fiscal year.

(e) *Effect of filing multiple challenges.* If an owner files a challenge with the tax commission pursuant to section 11-3206(b)(2) of the Administrative Code, the department shall not consider any appeal filed pursuant to this section and any determination of the commissioner transmitted to such owner shall have no effect.

(f) *Self-disclosure.* An owner may disclose in writing to the department that a covered property, or in the case of a residential cooperative property, a residential cooperative dwelling unit, does not serve as a primary residence.

§ 62-07 Notice of the surcharge amount.

(a) The statement of account required pursuant to section 11-129 of the administrative code and the assessment roll required pursuant to chapter 58 of the New York city charter shall collectively constitute notice of the imposition of the surcharge to an owner, provided that for the fiscal year beginning on July 1, 2026, notice that a payment is due and payable and such assessment roll shall constitute notice of imposition of the surcharge.

(b) For the fiscal year beginning on July 1, 2026, no later than July 25 of such year, the department shall publish an addendum to such assessment roll. Such addendum shall include the phase one market value and information sufficient to identify each covered property or, in the case of a covered property that is a residential cooperative property, each residential cooperative dwelling unit that may be subject to the surcharge. On December 31, the department shall publish a final version of such addendum.

(c) Notwithstanding any other provision of this section, residential cooperative dwelling units may be identified on an assessment roll by their street address and unit number. The commissioner may include any additional information on an assessment roll.

§ 62-08. Taxable status date. The department shall evaluate the value and determine the applicability of the surcharge, including but not limited to whether a property is used as a primary residence or constitutes an excluded property, as of the taxable status date for each fiscal year.

§ 2. This rule takes effect immediately.

REQUIRED FINDING OF SUBSTANTIAL NEED PURSUANT TO NEW YORK CITY CHARTER SECTION 1043(f)(1)(d)

It is hereby certified that there is a substantial need for this rule to take effect immediately without waiting for 30 days to elapse after publication in the City Record. This rule relates to the administration of a surcharge on certain real properties that do not serve as a primary residence. This rule is necessary to allow the Department of Finance (DOF) to administer and enforce this surcharge and provide sufficient clarity on the mechanisms by which taxpayers may challenge the applicability of this surcharge to any real property.

At and before the public hearing for this rule on July 9, 2026, DOF received extensive written and oral comments. DOF carefully considered each comment and has addressed the public's concerns in its final rule and accompanying Statement of Basis of Purpose. Chapter 59 of the Laws of 2026, which imposes the surcharge and requires DOF to administer the surcharge, further requires that this surcharge be imposed on properties beginning in the fiscal year commencing on July 1, 2026. The process for apprising property owners that their property may be subject to the surcharge must therefore begin as soon as possible so that both property owners and DOF can begin the process for determining whether properties are subject to the primary residency exemption authorized by Administrative Code Sections 11-3202 and 11-3203. Accordingly, in order for DOF to ensure a fair and efficient process, there is a substantial need for this rule to take effect immediately.

IT IS HEREBY CERTIFIED that there is a substantial need, pursuant to Charter Section 1043(f)(1)(d), for this rule to take effect immediately upon publication in the City Record so that DOF can begin administering as soon as possible the surcharge on certain real properties that do not serve as a primary residence as required under Chapter 59 of the Laws of 2026.

_____/s/_____
Richard Lee, Commissioner
New York City Department of Finance

APPROVED:

_____/s/_____
Zohran Kwame Mamdani
Mayor of the City of New York

Date: ____07/10/26_____

Non-primary residence property surcharge

New York City has a new annual surcharge on certain properties, sometimes referred to as “pieds-à-terre," that are not used as the owner’s primary residence.

If you received a letter from the Department of Finance indicating that you may be subject to the surcharge and believe you are exempt, you must respond by the deadline date. You also must submit information showing that the property is not subject to the surcharge.

If you received a letter indicating that you may be subject to the surcharge, you can submit a surcharge exemption application here:

- Residential homes and condos (deadline October 13, 2026)
- Cooperative units (deadline October 13, 2026)

*****PLEASE NOTE*****
THE DEADLINE FOR SUBMITTING AN EXEMPTION APPLICATION IS EXTENDED TO
OCTOBER 13, 2026

Use this eligibility guide to find out if you may be exempt from the surcharge.

Who is subject to the surcharge?

The surcharge applies to certain properties in New York City that are not used as a primary residence. For property tax years 2026-27 and 2027-28, the surcharge may apply to:

- One-, two-, and three-family homes valued by DOF at more than $5 million
- Condominium and cooperative units valued by DOF at $1 million or more

The surcharge will generally not apply if the property is used as a primary residence by the owner, a tenant or immediate family member of the owner, or one or more individuals with a majority interest in an entity that owns the property.

The Department of Finance published a supplemental market value roll on July 24, 2026, related to the annual non-primary residence property surcharge. This roll includes, but is not limited to, those

properties that may be subject to the surcharge. You can inspect and examine the roll on our Property Assessments page.

How much is the surcharge?

For property tax years 2026-27 and 2027-28, the surcharge will generally apply as follows:

Property type	DOF market value	Surcharge rate (% of market value)
One-, two-, and three-family homes	$5,000,000 or greater, but less than $15,000,000	0.8%
	$15,000,000 or greater, but less than $25,000,000	1.05%
	$25,000,000 or greater	1.3%
Condominium and cooperative units	$1,000,000 or greater, but less than $3,000,000	4.0%
	$3,000,000 or greater, but less than $5,000,000	5.25%
	$5,000,000 or greater	6.50%

How to apply for an exemption from the surcharge

Your property will not be subject to the surcharge if it is the primary residence of any of the following:

- The owner of the property.
- A tenant or subtenant.
- One or more individuals who collectively hold a majority interest in the LLC, corporation, or partnership that owns the property.
- An immediate family member of the owner or majority interest holder.
- The sole beneficiary or beneficiaries of a trust.

If you submit proof that your property meets any of the above criteria, you will not have to pay the surcharge.

Submit your surcharge exemption application for residential homes and condos or co-ops to provide the documentation described below.

Documents required when applying for an exemption

The specific documents you must provide when applying for an exemption will depend on who is using the property as a primary residence.

Primary residence documents

All owners applying for an exemption from the surcharge will be asked to provide one of the following for each occupant you identify as using the property as a primary residence:

- Most recently filed federal or state tax return
- Driver’s license or other DMV-issued identification

If a tax return, driver’s license, or other DMV-issued identification is not available, you can provide both of the following items:

- Voter identification card
- Other proof showing that the property is your primary residence

Tenant documents

If the property is the primary residence of a tenant or subtenant, you will be asked to provide the primary residence documents listed above, as well as:

- A copy of the current lease and one additional rental document, such as a utility bill, proof of rent payment, or renter’s insurance policy, OR
- A Tenant or Subtenant Affidavit and two additional rental documents

Immediate family member

If the property is the primary residence of an immediate family member of the owner or majority interest holder, you will be asked to provide the primary residence documents listed above, as well documentation proving the family relationship.

- Birth certificate
- Marriage certificate
- Immediate Family Member Affidavit Form

Business entity

If the property is owned by a business entity (such as an LLC, corporation, trust, or partnership) and is used as a primary residence by a majority member, shareholder, or partner, you will be asked to provide the primary residence documents listed above.

In addition, you must provide:

- Partnership agreement, trust agreement or affidavit, LLC operating agreement, or articles of incorporation
- Majority Interest Affidavit

Property value challenges

If you believe the Department of Finance has incorrectly valued your property, you can file a challenge with the NYC Tax Commission. Visit www.nyc.gov/taxcommission for instructions and deadlines. You can also ask the NYC Tax Commission to consider whether the property is used as a primary residence, but only if you are also challenging the property value. If you ask the NYC Tax Commission to consider primary residency, the Department of Finance will not consider any submission to the Department for the same property, and will defer to the NYC Tax Commission’s decision.

Frequently asked questions

My property is my primary residence, and I do not have a second home. Why did I get a letter?

The Department of Finance sent letters to owners of properties that may be subject to the surcharge. You may have received a letter because our records did not allow us to confirm that the property is being used as a primary residence. For example, if your co-op or condo receives the co-op or condo abatement, but we did not have a sufficient tax filing on record, you may have received the letter.

Receiving a letter does not necessarily mean that you will owe the surcharge. If the property is used as a primary residence, submit an exemption application by the deadline listed in your letter. We will review your application and notify you of our determination.

My property appears on the supplemental property tax roll on DOF's Property Assessments page. Does that mean it is subject to the surcharge?

The listing of property on the roll does not mean that it is subject to the surcharge. Properties that DOF believes are subject to the surcharge receive notification directly by DOF and are given an opportunity to respond. The vast majority of listed properties will not receive such a notice. Property owners who received a letter that they may be subject to the surcharge should review DOF's FAQ, and if needed, can submit a surcharge exemption application for residential homes and condos or co-ops.

On May 28, 2026, a new law went into effect that authorizes a surcharge on certain high-value properties in New York City that do not serve as a primary residence, sometimes called a "pied-à-terre." This law and its implementing rules (NYC Admin Code §§ 11-3201, 11-3205(d); 19 RCNY § 62-07), require the Department of Finance to publish a supplemental market value roll listing all 1-, 2-, and 3-family homes, all cooperative (co-op) and condominium properties, and each individual unit in a co-op property in which at least one unit may be subject to the surcharge.

My property appears on the supplemental property tax roll. Why didn't I receive a letter?

The listing of property on the roll does not mean that it is subject to the surcharge. Properties that DOF believes are subject to the surcharge receive notification directly by DOF and are given an opportunity to respond. The vast majority of listed properties will not receive such a notice. Property owners who received a letter that they may be subject to the surcharge should review DOF's FAQ, and if needed, can submit a surcharge exemption application for residential homes and condos or co-ops.

Why did I receive a letter if my co-op or condo is valued at less than $5 million?

The value threshold for co-ops and condos is different from that of 1-, 2-, and 3-family homes. Under state law, co-ops and condos are valued differently from other residential properties.

For the first two years of the surcharge, a co-op or condo may be subject to the surcharge if the Department of Finance has determined that its value is at least $1 million. Generally, under state law, a co-op or condo valued at $1 million or more by the Department of Finance is comparable to a single-family home valued at $5 million or more.

Receiving a letter does not necessarily mean that you owe the surcharge. You may qualify for an exemption from the surcharge if the unit is used as a primary residence. If you believe your property should not be subject to the surcharge, please submit a surcharge exemption application.

I'm having trouble completing the surcharge exemption application. What should I do?

If your application will not load, please wait a few minutes and refresh the page.

If you experience other technical issues, please contact us. Be sure to include the property address, borough-block-lot number, a description of the problem, and a screenshot of any error message you received.

Determination letters

The Department of Finance will review your response and documents. We will send you a determination letter and email informing you whether we have approved your application for exemption from the surcharge.

If your application is denied, you may file an application with the New York City Tax Commission to appeal DOF's determination. Visit the Tax Commission's surcharge appeal page for more information.

How the surcharge will be billed

If your property is subject to the surcharge, charges will appear on your property tax bill that is due January 1, 2027.

How to get help or request your PIN

If you have questions about the non-primary residence surcharge, including how to request your security PIN, please call 311 or contact us.

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Finance ("DOF") is proposing amendments to rules to extend the period and expand the processes by which property owners may appeal an initial determination relating to the surcharge on real property that does not serve as a primary residence. This rule is being proposed to make permanent the rule adopted on an emergency basis and published in the August 5, 2026 issue of the City Record.

When and where is the hearing? DOF will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 AM on November 6, 2026. The hearing will be conducted remotely through Microsoft Teams. To participate in the public hearing, enter the URL https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting. If prompted to provide the meeting ID, please enter: 212 689 884 701 894; If prompted for a passcode, please enter the following: Gd6Ud6Td. You can also participate in the hearing via telephone by calling 646-893-7101. The Phone conference ID: 740 085 278#

This location has the following accessibility option(s) available:
Audio-only access

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DOF through the NYC rules website at http://rules.cityofnewyork.us.
- **Email.** You can email comments to DOFRules@finance.nyc.gov.
- **Mail.** You can mail comments to NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038, Attn: Timothy Byrne.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Timothy Byrne, at (212) 748-6981.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling Joan Best at (212) 748-7214. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a "Question and Answer" format.

Is there a deadline to submit comments? The deadline to submit written comments is November 6, 2026.

What if I need assistance to participate in the hearing? You must contact DOF's Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone by calling Joan Best at (212) 748-7214; or by email at bestj@finance.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please provide at least 72 hours' notice prior to the hearing to ensure availability. This location has the following accessibility option(s) available: Audio-only access.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at http://rules.cityofnewyork.us/. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a video recording of oral comments concerning the proposed rule will be available on the DOF website. Copies of these documents may also be reviewed at NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, N.Y. 10038.

What authorizes DOF to make this rule? Section 1043(a) of the New York City Charter and sections 11-3203 and 11-3205 of the New York City Administrative Code authorize DOF to make this proposed rule. This proposed rule was not included in the DOF's regulatory agenda for this Fiscal Year because it was not contemplated when the DOF published the agenda.

Where can I find DOF's rules? The NYC Department of Finance's rules are in Title 19 of the Rules of the City of New York. See the link below.
https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-34211

What laws govern the rulemaking process? NYC Department of Finance must meet the requirements of section 1043 of the Charter when creating or changing rules. This notice is made according to the requirements of section 1043 of the Charter.

Statement of Basis and Purpose of Proposed Rule

The New York City Department of Finance ("DOF") is proposing the following rule change in accordance with the powers set forth in New York City Charter ("Charter") §§ 1043(a) and (i) and 1504, as well as chapter 32 of title 11 of the New York City Administrative Code ("Administrative Code"). On May 28, 2026, New York State adopted part HH of chapter 59 of the laws of 2026, which enacted a new chapter 32 within title 11 of the Administrative Code, imposing a surcharge on certain residential properties that do not serve as the primary residence of the owners of such properties, their immediate family members, or a tenant. *See also* Tax Law art. 30-C (codifying the corresponding enabling statute, also added by part HH of chapter 59 of the laws of 2026).

This surcharge is calculated as the product of a surcharge rate established by statute and the market value of a covered property, or with respect to a residential cooperative property, a residential cooperative dwelling unit. *See* Administrative Code §§ 11-3202 - 11-3204. This surcharge only applies to class one residential properties, class two residential cooperative dwelling units and class two residential condominium units that are not used as a primary residence by a covered owner, an immediate family member of a covered owner, or a tenant and that have market values exceeding thresholds set forth in the Administrative Code. *See* Administrative Code § 11-3202.

On August 3, 2026, an emergency rule was adopted to extend the deadline for submission of documentation demonstrating primary residence and expand the options that a property owner may use to submit such documentation. *See* Charter § 1043(i). On August 5, 2026, a copy of this emergency rule was published in the City Record. *See* City Record at 3284 (Aug. 5, 2026).

Pursuant to Charter § 1043(i), an emergency rule remains in effect for 60 days during which time a permanent rule may be proposed. This provision allows the effectiveness of the emergency rule to be extended for an additional 60 days to a total of 120 days while conducting a notice-and-comment process for the permanent rule pursuant to the City Administrative Procedure Act ("CAPA").

DOF thereby extends the effectiveness of the August 3, 2026 emergency rule through December 1, 2026 and further proposes a permanent rule, which would be substantially similar to the August 3, 2026 emergency rule.

Like the emergency rule in effect, this proposed permanent rule would extend the deadline for a property owner to submit documentation demonstrating primary residence. This permanent rule would differ from the August 3, 2026 emergency rule as it would:

(i) allow a property owner to, in fiscal year 2026/2027, submit such documentation no later than October 6, 2026, to align with the deadline announced by the Commissioner pursuant to the emergency rule,

(ii) allow a property owner to submit such documentation within 60 days after transmittal of an initial determination for fiscal years after 2026/2027, and

(iii) authorize the DOF Commissioner to extend the deadline to submit such documentation in any fiscal year where good cause is shown.

This additional time to submit such documentation would provide property owners with further time to receive assistance with any questions they may have about the process and make such submission. This proposed rule would also authorize property owners to submit such documentation in person at locations designated by the DOF Commissioner.

New material is underlined.

[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Section one. The opening paragraph of paragraph 1 of subdivision (b) of section 62-06 of title 19 of the rules of the city of New York is amended to read as follows:

An owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, or a duly authorized person may file an appeal of any initial determination made pursuant to subdivision (a) of this section no later than [30] 60 days after the date that notice of such initial determination is transmitted pursuant to paragraph (4) of such subdivision, or if no such notice is transmitted by DOF, no later than [30] 60 days after such surcharge appears on the assessment roll, provided, however, that in the fiscal year beginning on July 1, 2026, such owner or duly authorized person may file an appeal of such initial determination no later than October 6, 2026. Notwithstanding any provision of this paragraph, in any fiscal year, the commissioner of finance may set a later date for the filing of an appeal of an initial determination, where good cause is shown. Such owner must file such appeal in writing through an electronic portal designated by the department, or may file such appeal in person at a location designated by commissioner. Such appeal must include a certification that such property or dwelling unit is used as a primary residence and one or more of the following:

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Rules Relating to Surcharge on Certain Non-Primary Residences - Permanent Rule

REFERENCE NUMBER: DOF-86

RULEMAKING AGENCY: Department of Finance

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro — *September 25, 2026*
Mayor's Office of Operations — Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of Rules Relating to Surcharge on Certain Non-Primary Residences - Permanent Rule

REFERENCE NUMBER: 2026 RG 077

RULEMAKING AGENCY: Department of Finance

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: 9/25/2026
Senior Counsel

Surcharge Appeal

Select

- General Instructions
- Application Forms
- Other Forms
- Personal Exemptions
- Surcharge Appeal

Surcharge Appeal

The New York City Non-Primary Residence Surcharge Information Page

(Last updated: July 15, 2026 1.6.2)

New York City (NYC) has introduced a new annual surcharge on certain properties, sometimes referred to as “pied-a-terre" tax, that are not used as the Owner’s primary residence.

The surcharge applies to certain properties in New York City that are not used as a primary residence. For property tax years 2026-27 and 2027-28, the surcharge may apply to:

- One-, two-, and three-family homes valued by DOF at more than $5 million
- Condominium and cooperative units valued by DOF at $1 million or more

The surcharge will generally not apply if the property is used as a primary residence by the owner, a tenant or immediate family member of the owner, or one or more individuals with a majority interest in an entity that owns the property.

The Department of Finance published a supplemental market value roll on July 24, 2026, related to the annual non-primary residence property surcharge. This roll includes, **but is not limited to,** those properties that may be subject to the surcharge. You can inspect and examine the roll on DOF’s

Property Assessments page. ***If your name appears on DOF's supplemental assessment roll but you have not received a notice because the value of your property listed on the roll is less than the applicable threshold above, you need not appeal.***

The NYC Department of Finance (DOF) sends letters/notices (Surcharge Notice) to Property Owners that may be impacted by the surcharge, and DOF's Determinations can be appealed by timely filing for an exemption from DOF or by filing a TC107 Applications at the Tax Commission. The Tax Commission and the DOF are two separate/independent agencies. Each agency has its own appeal procedures and appeal deadlines.

If you received a Surcharge Notice from DOF advising you that you may be subject to the surcharge because your Property/unit is not a primary residence, you may seek an exemption from the surcharge by applying **directly to the DOF** (rather than to the Tax Commission) within the permitted timeframe. See the DOF website at www.nyc.gov/npsurcharge for more information.

Appeals to the Tax Commission must be timely made on a completed FORM TC107 which can be downloaded with instructions. Please be sure to read all form instructions, properly complete the form, and submit any documentation that supports your claims with your Application.

More information about the Non-Primary Residence Surcharge and how to appeal it is printed below. Please note that the information below is for informational purposes only and is not to be considered as legal advice.

Filing Deadlines

For the 2026/27 and 2027/28 tax years, the deadline to file Non-Primary Residence Surcharge Appeals with the Tax Commission is March 1, 2027 for properties in Tax Class Two and March 15, 2027 for properties in Tax Class One, if you appeal both the DOF's primary residence and Market Value Determinations to the Tax Commission at the same time. If you initially appeal the DOF's residency Determination to the DOF, you may appeal its *final* Determination to the Tax Commission by the applicable March 1 or March 15 deadline, *or* within 30 days of the date on the final Determination notice sent from the DOF, whichever is later. Note however, any appeal of your Market Value must still be filed by the applicable March 1, 2027 or March 15, 2027 deadline listed above. If you do not appeal the DOF's residency Determination you may still challenge your Market Value at the Tax Commission by the applicable March 1, 2027 or March 15, 2027 deadline. Ultimately, only one Surcharge Appeal may be filed with the Tax Commission for any one year.

Questions for the Tax Commission (and not DOF)?

Questions related to Tax Commission Surcharge appeals *only* can be emailed to:

TCSurchargeAppeal@oata.nyc.gov

Please allow five days for a reply email. Note that questions sent to the Tax Commission do not extend filing deadlines and Tax Commission staff is not permitted to provide legal advice.

See also, the DOF website at www.nyc.gov/npsurcharge for information.

Key Definition Summaries

Below is a list of the most commonly used definitions related to Non-Primary Residence Surcharge Appeals.

Excessive: A Market Value is "Excessive" if it exceeds the Full Value of the Property or co-op unit.

Full Value: For Class One Properties: Is the price for which a Property would ordinarily sell on the open market, based on its condition, ownership and use as of January 5th. Your Property has a Full Value even if you do not plan to sell it. Full Value estimates may be based on recent sales, actual or imputed income and operating expenses, construction costs, or a combination of these, for your Property and similar properties in the area.

For Class Two Properties: Full Value is determined using an approach based on income capitalization of comparable rental properties. In the case of a co-op unit, the portion of the co-op building's Full Value attributable to a co-op unit is imputed to such unit based on the portion of the shares in the co-op building that represent an interest in such co-op unit.

Covered Owner: Only Covered Owners can establish primary residency. Generally speaking, a Covered Owner is 1) an owner of real Property classified as class one Property; 2) a tenant – stockholder of a co-op corporation whose title to a portion of real Property held by such a corporation is represented by shares of stock in such a corporation; or 3) an owner of a residential condominium dwelling unit. A covered owner includes a sole beneficiary or beneficiaries of trusts when Property or co-op shares are held in trust, and individuals who collectively hold a majority interest in a limited liability company (LLC), corporation, or partnership that owns the Property.

Owner: An owner or owners of real property classified as class one property; a tenant-stockholder of a cooperative corporation whose title to a portion of real property held by such corporation is represented by shares of stock in such corporation, or such corporation; or an owner or owners of a residential condominium dwelling unit.

Primary Residence: The use of a property or co-op unit, as of January 5th in the calendar year immediately before the fiscal year when the surcharge is applied, as a primary residence of (i) a Covered Owner, or an immediate family member of a Covered Owner; or (ii) a tenant or sub-tenant under a real, legitimate lease negotiated at arms' length and with a term of at least a year. An immediate family member includes a spouse, child, sibling, parent, grandparent, or grandchild.

A determination of primary residence is made based on documentation including: (i) a state or federal income tax return indicating that the property or co-op unit was a Covered Owner's, immediate family member's, tenant's, or subtenant's permanent home address; (ii) that the Covered Owner, immediate family member, tenant, or subtenant received other tax credits or exemptions as a primary resident of the property or co-op unit; (iii) proof that the Covered Owner, immediate family member, tenant, or subtenant occupied the property or co-op unit for a majority of days during the immediately prior calendar year; and (iv) other documents previously submitted to the City indicating that the property or co-op unit is the primary residence of the Covered Owner, immediate family member, tenant, or subtenant.

Unlawful: A Market Value is "Unlawful" if the Property or co-op unit is not subject to the surcharge; the Property or co-op unit is entirely outside NYC; the Property or co-op unit cannot be identified from the assessment roll (co-op units are fine if identified by street address + unit number); or the assessment was made by someone without authority.

Who May Appeal A DOF Determination That A Property/Unit Is Not A Primary Residence

Owners —Natural persons and legal entities with an Ownership interest.

See TC107 Instructions for more information

Examples:

Tax Class 1 Homeowners — Individuals who own 1–3 family homes classified as Class 1

Condominium Unit Owners — Owners of residential condominium units

Co-op Unit Owners/shareholders — Tenant-shareholders in cooperative corporation

Cooperative Corporation — A Cooperative Corporation with one or more cooperative residential units

Beneficial Owners of trusts — When Property or co-op shares are held in trust and the beneficial Owner

What Can Be Appealed at the Tax Commission

Examples:

DOF's *initial* primary residence Determination — Owners may contest the DOF's *initial* Determination that the Property is not a primary residence (when also challenging the Market Value at the same time)

DOF's *final* primary residence Determination — Owners may contest the DOF's final Determination (i.e. Determination *after* you applied to DOF for an exemption from the Surcharge) that the Property is not a primary residence was erroneous

DOF's Market Value Determination — Owners may challenge the Market Value DOF used to determine surcharge amount (without challenging DOF's primary residence Determination)

Imposition of the surcharge — Owners may challenge whether the surcharge is properly applied because the correct Market Value of the Property is below the applicable Market Value threshold

Covered vs. excluded Property status — Whether the Property is not a Covered Property and/or should have been categorized as an excluded Property

The Property cannot be identified from the assessment roll (co-op units are fine if identified by street address + unit number)

For an official list of documents that may be submitted to the Tax Commission in support of a Primary Residence Claim, please see DOF website at: Documents required when requesting an exemption. Although this is the DOF's listing, The Tax Commission requires/accepts and considers the same documents.

Claim-Related Documents	**Examples of Acceptable Documentation**
Certification of primary residence	A sworn certification that the Property "is a primary residence" of the Owner or qualifying family member (i.e., an Owner's spouse, child, sibling, parent, grandparent, or grandchild). See, Documents required when requesting an exemption.This the DOF's listing. The Tax Commission accepts the same documents.

Claim-Related Documents	Examples of Acceptable Documentation
Owner's NY State resident income tax return showing the Property address	Proof that the Owner "provided the address… as such Covered Owner's permanent home address on the New York state resident income tax return." See, Documents required when requesting an exemption.This the DOF's listing. The Tax Commission accepts the same documents.
Owner's STAR exemption or STAR credit documentation	Proof that the Property received a STAR exemption or credit in the prior year is explicitly listed as acceptable evidence of primary residence. See, Documents required when requesting an exemption.This the DOF's listing. The Tax Commission accepts the same documents.
Occupancy documentation related to primary residence Determination	To show majority of year occupancy: utility bills, lease agreements, sublease documentation (if applicable), or other DOF accepted evidence. See, Documents required when requesting an exemption.This the DOF's listing. The Tax Commission accepts the same documents.
Bona fide lease agreement (if relying on tenant occupancy as primary residence)	Required when the Owner claims the unit is a primary residence of a lessee; must be an arm's length lease of at least one year. See, Documents required when requesting an exemption.This the DOF's listing. The Tax Commission accepts the same documents.
Value evidence-generally	Appraisals, comparable sales, or valuation analyses. Under the law, DOF's Market Value Determinations are presumed to be correct. The burden is on the Applicant to prove the claims in the Application. You need not prove that DOF's methodology or calculations used to make the assessment were wrong and offering such proof will not necessarily establish your claimed Full Value.
Proof of Ownership status	Deed, stock certificate (coop), trust documents, or entity Ownership records to establish standing as a "Covered Owner."

Claim-Related Documents	Examples of Acceptable Documentation
Evidence of excluded Property status	Certificate of occupancy status, offering plan status, or proof that the unit remains unsold by the sponsor.
Evidence of DOF procedural error	Documents showing incorrect valuation date.

TAX COMMISSION OF THE CITY OF NEW YORK
1 Centre Street, Room 2400, New York, NY 10007

APPEAL FROM DEPARTMENT OF FINANCE (DOF) NON-PRIMARY RESIDENCE SURCHARGE NOTICE
TC107 INSTRUCTIONS
Rev. 7-15-2026 v1.6.2

The TC107 cannot be used to protest the assessed value of your Property.
The TC107 cannot be used to protest a denial or revocation of any real Property tax exemption (e.g. senior citizen, STAR).

You can file this Application by mail or in person at the Tax Commission's office at 1 Centre Street, Room 2400, New York, NY 10007, or at one of the Department of Finance (DOF) business centers listed below. Applications must be received at the Tax Commission by the applicable deadline. Emailing/Faxing the Application and/or attachments is not permitted.

FAILURE TO ANSWER A RELEVANT QUESTION OR PROVIDE REQUIRED PROOF MAY RESULT IN A DENIAL OF YOUR APPEAL.

A separate Application is required for each Property, including separate Applications and supporting documentation for each unit in a condominium or cooperative.

Key Definition Summaries

Below is a list of the most commonly used definitions related to Non-Primary Residence Surcharge Appeals.

Excessive: A Market Value is "Excessive" if it exceeds the Full Value of the Property or co-op unit.

Full Value: For Class One Properties: Is the price for which a Property would ordinarily sell on the open market, based on its condition, ownership and use as of January 5th. Your Property has a Full Value even if you do not plan to sell it. Full Value estimates may be based on recent sales, actual or imputed income and operating expenses, construction costs, or a combination of these, for your Property and similar properties in the area.

For Class Two Properties: Full Value is determined using an approach based on income capitalization of comparable rental properties. In the case of a co-op unit, the portion of the co-op building's Full Value attributable to a co-op unit is imputed to such unit based on the portion of the shares in the co-op building that represent an interest in such co-op unit.

Covered Owner: Only Covered Owners can establish primary residency. Generally speaking, a Covered Owner is 1) an owner of real Property classified as class one Property; 2) a tenant – stockholder of a co-op corporation whose title to a portion of real Property held by such a corporation is represented by shares of stock in such a corporation; or 3) an owner of a residential condominium dwelling unit. A covered owner includes a sole beneficiary or beneficiaries of trusts when Property or co-op shares are held in trust, and individuals who collectively hold a majority interest in a limited liability company (LLC), corporation, or partnership that owns the Property.

Owner: An owner or owners of real property classified as class one property; a tenant-stockholder of a cooperative corporation whose title to a portion of real property held by such corporation is represented by shares of stock in such corporation, or such corporation; or an owner or owners of a residential condominium dwelling unit.

Primary Residence: The use of a property or co-op unit, as of January 5th in the calendar year immediately before the fiscal year when the surcharge is applied, as a primary residence of (i) a Covered Owner, or an immediate family member of a Covered Owner; or (ii) a tenant or sub-tenant under a real, legitimate lease negotiated at arms' length and with a term of at least a year. An immediate family member includes a spouse, child, sibling, parent, grandparent, or grandchild.

A determination of primary residence is made based on documentation including: (i) a state or federal income tax return indicating that the property or co-op unit was a Covered Owner's, immediate family member's, tenant's, or subtenant's permanent home address; (ii) that the Covered Owner, immediate family member, tenant, or subtenant received other tax credits or exemptions as a primary resident of the property or co-op unit; (iii) proof that the Covered Owner, immediate family member, tenant, or subtenant occupied the property or co-op unit for a majority of days during the immediately prior calendar year; and (iv) other documents previously submitted to the City indicating that the property or co-op unit is

the primary residence of the Covered Owner, immediate family member, tenant, or subtenant.

Unlawful: A Market Value is "Unlawful" if the Property or co-op unit is not subject to the surcharge; the Property or co-op unit is entirely outside NYC; the Property or co-op unit cannot be identified from the assessment roll (co-op units are fine if identified by street address + unit number); or the assessment was made by someone without authority.

INSTRUCTIONS FOR COMPLETING FORM TC107

SECTION 1 - Your borough, block and lot, as well as your building # and unit ID # (applicable to condominiums and cooperatives only) can be found on the Surcharge Notice you received from the DOF. Indicate whether your appeal relates to a Surcharge Notice for the 2026/27 and/or 2027/28 tax year. Note that you must attach the corresponding Surcharge Notice(s) you received to your Application. Indicate the type of Property and the street address information. If the Property is a condominium or cooperative unit, indicate the building and unit number. If you received a Surcharge Notice with multiple lot #s on the same Notice, you may list them all on the TC107 form. If the Notice applied to only one apartment but it is combined with another as a single residence, then you should be appealing the combined residence. Any documentation submitted must relate to the tax year(s) checked.

SECTION 2 – Provide the name of the Owner/Applicant and date the Property/unit was acquired. Indicate the nature of Ownership. If the Property is owned by more than one person or entity, you must attach a completed TC107SUP and any supplemental documentation, if required. If the Owner/Applicant is a Cooperative Corporation filing *on behalf* of a dwelling unit Owner, check the appropriate box.

SECTION 3 -Provide contact information for the Applicant or Applicant's representative. The Tax Commission communicates primarily by email. Please provide a legible email address. If the Tax Commission is unable to contact you by electronic means, we will attempt to contact you by regular mail at the *contact* address provided on your Application. Applicants may designate themselves or any other person as the authorized representative to be contacted by the Tax Commission about the Application. The contact person's name, firm name, if any, mailing address, email address and telephone number must be provided on the Application form. Only the designated representative may contact the Tax Commission about the Application, and the Tax Commission will only contact the designated representative about the Application. To change the designated representative after an Application is filed, you must file Form TC155.

SECTION 4 -Check the appropriate boxes to indicate the ground(s) for your claim for the tax year(s) being appealed. If you are claiming that the Surcharge is Excessive, you must indicate the Market Value listed on the DOF's Surcharge Notice, your claimed Full Value, and your requested Value reduction. If you are claiming that the Surcharge is Unlawful, indicate whether you are claiming that the DOF's *initial* Determination that the Property is not a primary residence was erroneous, whether the DOF's *final* Determination that the Property is not a primary residence (i.e. Determination *after* you applied to the DOF for an exemption from the Surcharge and received a denial from the DOF) was erroneous, the surcharge was improperly applied because the Property did not meet the minimum value threshold, the Property is incorrectly categorized as a Covered Property, the Property cannot be identified from the assessment roll description, the Property is outside of the boundaries of NYC, or the assessment has been made by a person or body without authority to make such entry.

SECTION 5 –Check the item(s) of proof being submitted with your appeal. The list is not exhaustive. Please number the pages of your submission and note the total in the space indicated. If you are appealing the DOF's Determination that the Property is not your primary residence, you must submit proof that the Property is your primary residence with your appeal. *The Tax Commission considers the same types of documentation listed on the DOF website* www.nyc.gov/npsurcharge to support *your claims*. You can only have one primary residence in any given year. If the DOF has determined that the Property is not your primary residence, but you are challenging the DOF's Market Value

Determination only, you need only submit evidence of your Full Value for the year(s) being appealed. Check "Other" if you are submitting a narrative, analysis, and/or any other supporting documentation of your claim(s). This includes evidence related to Covered properties. You are encouraged to submit any/all documentation that you feel helps to articulate/substantiate your claim(s).

Additional time to submit documentation: Applicants will have 30 days from the deadline to file an appeal to submit any required or additional information not filed with the TC107. Information submitted after the filing of the initial Application must be accompanied by Form TC159 and must be received at the Tax Commission within the 30-day window. If the Tax Commission requests additional information from an Applicant, the Applicant will have 30 days from the date of the Tax Commission request to submit the information requested. Requests for extensions to the above deadlines will not be entertained. ***Supporting documentation (i.e., documents other than the Appeal Application itself) may be emailed to:***

TCSurchargeAppeal@oata.nyc.gov

Attach all the proof required, regardless of whether you previously provided it to the DOF, which is a separate agency. Keep a copy of whatever you submit to the Tax Commission.

- Note that your 2025 or 2026 Tax Return are relevant to your eligibility for the 2026/27 or 2027/28 Surcharge years, respectively. If any Owner was not required to file a federal or state tax return for 2025 or 2026, please attach a list of all Owners who were not required to file together with an explanation as to why no filing was required and submit proof of residency for each such Owner (e.g., copies of W-2 forms, Social Security, 1099 forms). Proof that no tax return was filed in 2025 or 2026 is insufficient.

SECTION 6- OATH: The Form TC107 must be signed by the Applicant, an Officer of a Corporate Owner, managing member or officer of an LLC, or by an individual authorized to sign by a valid power of attorney from the Applicant and a completed Form TC244. A copy of the power of attorney and TC244 must be attached. If signed by someone other than an Owner or Board of Managers, a Form TC244 is required. The Application must be signed by someone with personal knowledge. By signing Tax Commission forms, the signer states that he or she has read the forms before signing them, affirms the truth of the statements made, including any statements on attachments or preprinted on the forms, even if made or inserted without the signer's knowledge, and understands that false filings are subject to all applicable civil and criminal penalties. This applies to agents signing forms under a power of attorney. Any crossed out information must be initialed by the signer. False statements and non-disclosure: False statements on an Application and failure to timely make required disclosures are against the law. Failure to timely make required disclosures or to correct misinformation may result in a denial of your appeal.

When to file?

For the 2026/27 and 2027/28 tax years, the deadline to file with the Tax Commission is March 1, 2027 for properties in Tax Class Two and March 15, 2027 for properties in Tax Class One, if you appeal both the initial DOF's primary residence notice and Market Value Determinations to the Tax Commission at the same time. If you initially appeal the DOF's residency Determination to the DOF, you may appeal its final Determination to the Tax Commission by the applicable March 1 or March 15 deadline, or within 30 days of the date on the final Determination notice sent from the DOF, whichever is later. Any appeal of your Market Value, however, must still be filed by the applicable March 1, 2027 or March 15, 2027 deadline listed above. If you do not appeal the DOF's residency Determination you may still challenge your Market Value at the Tax Commission by the applicable March 1, 2027 or March 15, 2027 deadline. Ultimately, only one Surcharge Appeal may be filed with the Tax Commission for any one year.

Additional time to submit documentation:

Applicants will have 30 days from the deadline to file an appeal to submit any required or additional information not filed with the TC107. Information submitted after the filing of the initial Application must be accompanied by Form TC159 and must be received at the Tax Commission within the 30-day window. If the Tax Commission requests

additional information from an Applicant, the Applicant will have 30 days from the date of the Tax Commission request to submit the information requested. Requests for extensions to the above deadlines will not be entertained.

Where to file?

- **Filing in Person**. You are strongly urged to file your TC107 Application in person at the Tax Commission office in Manhattan at 1 Centre Street. If you are filing your own Application, file it on the 24th Floor, Room 2400. Applications may also be filed in person at a Department of Finance Business Center. Below are the DOF Business Center and Assessment Office locations:

Bronx – 3030 Third Avenue (East 156th Street)	**Queens** – 144-06 94 Avenue (Sutphin Boulevard):
Brooklyn – 210 Joralemon Street: Business Center	**Staten Island** – 350 St. Marks Place (Hyatt Street): Business Center 1st Fl.; Assessment Office
Manhattan – 66 John Street (William Street): Business Center 2nd Fl.; Assessment Office 13th Fl.	

The DOF Business Centers are open weekdays from 8:30 AM to 4:30 PM. Assessment offices are open weekdays from 9:00 AM to 5:00 PM. The offices are closed on City holidays. Dial 3-1-1 for further information.

- **Filing by Mail.** If filing by mail, you must mail your Application to the Tax Commission, 1 Centre St., Rm. 2400, New York, NY 10007. Mailed Applications are not considered filed *until received*. Applications received after the applicable deadline will not be reviewed even if they were mailed before that date. If you file by mail, complete Tax Commission receipt Form TC10 and include it with your Application. Provide a stamped self-addressed envelope. The Tax Commission will date stamp your Form TC10 and return it to you only if you include sufficient postage.

- **Get a Receipt**. Form TC10 is the only acceptable proof of timely filing so be sure to get a date-stamped Form TC10 when you file your Application and keep it for your records. Proof of mailing, or a return receipt from the post office or an express delivery service, is not acceptable proof of timely filing with the Tax Commission.

- **Original (wet) Signatures Required**. Applications require an original signature and, therefore, may not be filed by fax or e-mail.

How the Tax Commission Reviews Applications

- The review follows some of the same procedures and deadlines as standard NYC assessment challenges (Charter §§ 164–166, 1512).
- Two key differences between a Correction of Assessment review and a Surcharge Review is that no personal hearings are held for Surcharge review and the Tax Commission review will be limited to the current year only (except for 2026/27 and 2027/28 which may be determined at the same time under the same Application).
- A Determination under this surcharge review cannot be used in any other Tax Commission or court proceeding about any other issue. Exception: A Determination of Market Value for co-op units will be considered in Determining Value for other units in the same building for the same fiscal year.

Determinations

- If your Application is complete, timely and properly filed, the Tax Commission will review the merits of your Application and send Applicants (using contact information provided in Section 3 of Application) a Determination in writing. As noted above, there are no personal hearings for Surcharge appeals. The Tax Commission can only review the applicable tax year(s) that you are appealing; you should contact the DOF about whether an Application for any following tax year is needed. All Determinations will be communicated to the DOF, which is responsible for applying the Surcharge to your account. *The Tax Commission does not*

control that process or its timing. The Tax Commission does not issue notices of remission, refunds or tax credits. Contact the Finance Remissions Unit, 66 John Street, New York, NY 10038.

- If you do not receive a notice of Determination by October 1, 2027, write or email the Tax Commission and include a copy of your Application form (without any attachments) and your date-stamped TC10 receipt.

Judicial Review (Going to Court) A Determination by the Tax Commission shall constitute a final Determination and is appealable by seeking judicial review pursuant to Article 7 of the Real Property Tax Law. If an Owner/Applicant disagrees with the Tax Commission's final Determination, or if an Owner/Applicant does not receive a Determination on an Application filed, they may bring a court challenge under Article 7 of the Real Property Tax Law, despite any contrary provisions in Article 7. The Article 7 proceeding must be filed within the time limits of NYC Charter § 166 (i.e., **before** October 25th annually). **This deadline applies even if you did not receive a notice of Determination from the Tax Commission.**

Forms

Tax Commission forms (i.e., not court petition-related forms) may be obtained from the Tax Commission website: www1.nyc.gov/site/taxcommission/index.page. Printed forms are available at the Tax Commission office at 1 Centre Street, New York, NY, Room 2400 and at Finance Business Centers.

Questions?

Email questions related to Surcharge appeals *only* to **TCSurchargeAppeal@oata.nyc.gov.** Please allow five days for a reply email. Note that questions sent to the Tax Commission do not extend filing deadlines and Tax Commission staff is not permitted to provide legal advice.

TAX COMMISSION OF THE CITY OF NEW YORK
1 Centre Street, Room 2400, New York, NY 10007
APPEAL FROM DEPARTMENT OF FINANCE (DOF) NON-PRIMARY RESIDENCE SURCHARGE NOTICE
BEFORE BEGINNING THIS FORM, READ ALL INSTRUCTIONS FOR THIS FORM

TC107
2026/27 & 2027/28

1. IDENTIFICATION

BOROUGH: (check one):	**BLOCK**	**LOT**	**BUILDING #**	**SURCHARGE YEAR:** (Check one/both, as applicable.)
__Manhattan __Bronx __ Brooklyn __Queens __Staten Island				____2026/27 ____2027/28

Type of Covered Property Being Appealed (check one):
☐ 1-, 2-, 3-Family Dwelling
☐ Condominium Dwelling Unit. Enter unit/apt> # _____
☐ Cooperative Dwelling Unit. Enter unit/apt. # _____

Full Address Of Covered Property Including Zip Code:

2. OWNER/APPLICANT INFORMATION

Name of Applicant: _____ **Acquisition Date**:_____

Nature of Ownership: ☐Owner, ☐Tenant-Shareholder of A Cooperative, ☐Beneficial Owner/Owner of Trust, ☐Majority Interest Holder In Partnership, Corporation, Or Limited Liability Company.

Are there other Owners? Yes ☐ No ☐ If "Yes", a completed TC107SUP form for each Owner must be attached to this Application. Failure to fully answer this question will result in an automatic denial of your appeal.

☐Applicant Is A Cooperative Corporation Filing On Behalf Of Dwelling Unit Owner.

3. CONTACT INFORMATION FOR APPLICANT

NAME OF PERSON TO BE CONTACTED (if different from above)	**PHONE NUMBER**	**GROUP #,** (If any)
MAILING ADDRESS (if different from above)	**EMAIL ADDRESS:** (write legibly)	

The person listed above is: ☐**The Applicant,** ☐**An Attorney,** ☐**Other Representative,** ☐**Employee or Officer of Applicant**

4. NON-PRIMARY RESIDENCE SURCHARGE CLAIM Indicate the ground(s) of your claim- Check and complete all that apply

☐ The Surcharge is Excessive: The Market Value determined by DOF exceeds the full value of the Covered Property/Unit.

- **2026/27 MV listed on Surcharge Notice:** $_____ **2026/27 Claimed Full Value:** $_____ **Claimed Reduction $**_____
- **2027/28 MV listed on Surcharge Notice:** $_____ **2027/28 Claimed Full Value:** $_____ **Claimed Reduction $**_____

☐ The Surcharge is Unlawful:

☐ DOF *initial* primary residence Determination-DOF's *initial* Determination that the Covered Property/unit is not a primary residence was erroneous for ☒2026/27 and or ☐2027/28.

☐ DOF *final* primary residence Determination-DOF's *final* Determination that the Covered Property/unit is not a primary residence was erroneous for ☒2026/27 and or ☐2027/28. (A*ttach copy of Application to the DOF seeking cancellation of the surcharge for the tax year being appealed and DOF Determination.)*

☐ The Covered Property/Unit is not subject to the surcharge — The surcharge was improperly applied for ☐2026/27 and/or ☐2027/28 as the Property did not meet the minimum value threshold.

☐ Covered vs. Excluded Property status — The Property is incorrectly categorized as a Covered Property for ☐2026/27 and/or ☐2027/28.

☐ The Covered Property/Unit cannot be identified from the ☐2026/27 and/or ☐2027/28 assessment roll description, is outside of the boundaries of NYC, or the assessment has been made by a person or body without authority to make such entry.

5. ATTACHED PROOF OF CLAIM(S):

☐ You must attach a copy of the DOF's Surcharge Notice Applicable To The Year(s) Being Appealed.

☐ Certification of primary residence	☐ Evidence of Value: Appraisals, comparable sales, and/or valuation analyses
☐ NY State resident income tax return showing the Property address	☐ Proof of Ownership status
☐ STAR exemption and/or STAR credit documentation	☐ Evidence of excluded Property status
☐ Occupancy documentation	☐ Evidence of DOF error/omission on the assessment roll
☐ Bona fide lease agreement (if relying on tenant occupancy)	☐ Other (explain) _____

DOCUMENTATION ATTACHED- Number the Pages. Total Number of Pages Submitted _____

6. OATH: This Application must be signed by the Applicant, an Officer of a Corporate Owner, managing member or officer of an LLC, or by an individual authorized to sign by a valid power of attorney (POA) from the Applicant and a completed Form TC244. A copy of any POA and TC244 must be attached.

I have read this form and all relevant instructions, whether on this form, or on another. I certify that all statements made on this Application, and on any attachments, are true and correct to the best of my knowledge and belief, and I understand that such statements are being relied upon by the City of New York, and that they are subject to verification. I have read this entire form before signing it. I am personally responsible for the accuracy of the information provided on this Application, and any attachments. I also understand that the making of any willful false statement of material fact on this Application including the attached sheet(s) will subject me to the provisions of the penal law relevant to the making and filing of false statements.

Print name: _____ Signed: _____ Date:_____

Sworn to before me: County: _____ State: _____

Signature of Notary: _____ Date: ___/___/_____

NOTARY STAMP