



**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

NOTICE OF PUBLIC HEARING

- Subject:** Opportunity to comment on proposed rules relating to the partial tax abatement for residential real property held in the cooperative or condominium form of ownership
- Date / Time:** October 2 , 2013 at 1:00 pm
- Location:** 345 Adams Street, 3rd floor,
Brooklyn, New York
- Contact:** Beth Goldman, Deputy Commissioner for Legal Affairs,
345 Adams Street, 3rd Floor, Brooklyn, New York 11201
GoldmanBeth@Finance.nyc.gov

Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of Finance by section 467-a of the Real Property Tax Law and sections 389 (b) and 1043 of the New York City Charter, and in accordance with section 1043 of the New York City Charter, the New York City Department of Finance proposes to adopt the following rules relating to the partial tax abatement of residential real property held in the cooperative or condominium form of ownership.

The proposed rules are necessary to carry out the powers and duties delegated to the Commissioner of Finance by Section 467-a of the Real Property Tax Law. These proposed rules were not included in the Fiscal Year 2013 regulatory agenda because the legislation upon which these proposed rules are based was not yet enacted at the time of regulatory agenda publication.

Instructions

- Prior to the hearing, you may submit written comments about this proposed rule amendments to the office of Beth Goldman, Deputy Commissioner for Legal Affairs, 345 Adams Street, 3rd Floor, Brooklyn, New York 11201 on or before October 2, 2013. Comments may also be submitted electronically to GoldmanBeth@Finance.nyc.gov or electronically through the NYC Rules website at www.nyc.gov/nycrules by October 2, 2013.
- If you would like to testify at the hearing, you must notify Joan Best at (718) 403-3669 at least three business days prior to the date scheduled for the hearing.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please notify Joan Best at (718) 403-3669 no later than two weeks prior to the hearing.
- Written comments and a summary of oral comments received at the hearing will be available for public review beginning one day after the hearing at the office of Robert S. Dauman, Office of Legal Affairs, 345 Adams Street, 3rd floor, Brooklyn, New York 11201, between the hours of 9:00 A.M. and 5:00 P.M.

BASIS AND PURPOSE OF PROPOSED RULES

Section 467-a of the Real Property Tax Law, originally enacted by chapter 273 of the Laws of 1996, established a partial reduction of real property taxes in the form of an abatement for qualifying real property held in the cooperative or condominium form of ownership. Chapter 4 of the Laws of 2013 amended this section to establish additional criteria for eligibility and requirements for abatement applications for fiscal years beginning in 2012, 2013 and 2014.

These proposed rules clarify the eligibility criteria and application requirements by providing:

- an explanation of the abatement amount calculation
- abatement application requirements for fiscal years beginning in 2012, 2013 and 2014, and the circumstances in which no application is required for the fiscal year beginning in 2012;
- that the Commissioner of Finance may require a supplemental application to gather additional information from a cooperative or condominium unit owner to determine eligibility;
- clarification of the definition of primary residence and the enhanced abatement available to a unit owner if one of the owner's units is the owner's primary residence;
- that units in a cooperative or condominium that are receiving an exemption or abatement from another section of law are ineligible for the abatement, and the exceptions to this rule;
- clarification of the eligibility requirement that a unit owner own no more than three units in the same development;
- that if the Commissioner of Finance determines that the unit was transferred primarily for the purpose of receiving the abatement, then the abatement application will be denied and the abatement already granted will be revoked;
- that if the property is in arrears of real property taxes or other City charges that total at least \$1,000, then an abatement application will be denied, and an abatement already granted will be revoked; and
- that the Commissioner of Finance may recover any erroneous or excessive abatement that is granted.

Matter underlined is new. Matter in brackets [] is to be deleted.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this agency, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Title 19 of the Rules of the City of New York is amended by adding a new Chapter 50 to read as follows:

Chapter 50

Rules Relating to the Partial Tax Abatement for Residential Real Property Held in the Cooperative or Condominium Form of Ownership

§50-01. Purpose and scope of rules. Section 467-a of the Real Property Tax Law, originally enacted in 1996, established an abatement from real property taxes for dwelling units in real property held in the cooperative or the condominium form of ownership that meet the qualification criteria of the law. This law was amended in 2013 to change certain provisions relating to eligibility and application for the abatement for fiscal years beginning in 2012, 2013 and 2014. Section 467-a authorizes the Commissioner of Finance of the City of New York to promulgate rules necessary to effectuate the purposes of the law. These rules are intended to clarify the criteria for eligibility for the abatement and the requirements concerning application for the abatement for fiscal years beginning in 2012, 2013 and 2014.

§50-02. Definitions. Unless the context requires otherwise, as used in this chapter:

(a) “Abatement” means the partial tax abatement for residential real property held in the cooperative or condominium form of ownership authorized by section 467-a of the Real Property Tax Law. As used in this chapter, the term “abatement” includes both the “primary residence abatement” and the “non-primary residence abatement.”

(b) “Administrative Code” means the Administrative Code of the City of New York.

(c) “Assessed value” means the actual assessed value of real property, which is not reduced by any exemption from real property taxes.

(d) “Board” means, in the case of real property held in the cooperative form of ownership, the board of directors of the cooperative, and in the case of real property held in the condominium form of ownership, the board of managers of the condominium.

(e) “Commissioner” means the Commissioner of Finance of the City of New York and any employee of the Department of Finance authorized by the Commissioner to act on his or her behalf.

(f) “Dwelling unit” means a unit used primarily for residential purposes in residential real property designated as class two real property under section 1802 of the real property tax law that is held in the cooperative or condominium form of ownership, and does not include a unit used primarily for professional or commercial purposes or used solely for parking vehicles or for storage.

(g) “Fiscal year 2011/12” means the fiscal year that begins on July 1, 2011 and ends on June 30, 2012.

(h) “Fiscal year 2012/13” means the fiscal year that begins on July 1, 2012 and ends on June 30, 2013.

(i) “Fiscal year 2013/14” means the fiscal year that begins on July 1, 2013 and ends on June 30, 2014.

(j) “Fiscal year 2014/15” means the fiscal year that begins on July 1, 2014 and ends on June 30, 2015.

(k) “Owner” means the owner, in whole or in part, of a dwelling unit in real property held in the condominium form of ownership, or a tenant-stockholder of a cooperative apartment corporation who owns, in whole or in part, a dwelling unit, as represented by his or her shares of stock in such cooperative apartment corporation. For purposes of these rules, with respect to any dwelling unit, or the shares representing a dwelling unit, held in trust solely for the benefit of a person or persons who would otherwise be eligible for an abatement pursuant to these rules were such person or persons the owner or owners of such dwelling unit, such person or persons are each deemed to be an “owner” of the dwelling unit. With respect to any dwelling unit, or the shares representing a dwelling unit, held in trust, the trustee or trustees of the trust are each deemed to be an “owner” of the dwelling unit. The holder or holders of a life estate in a dwelling unit are deemed to be “owner(s)” of the dwelling unit. An “owner” can only be an individual, and cannot be a corporation, partnership or any other entity.

(l) “Primary residence” means the dwelling unit in which the owner of the dwelling unit actually resides and maintains a permanent and continuous physical presence.

(m) “Sponsors” means persons or business entities who make or take part in a public offering or sale of securities consisting primarily of shares or investments in real estate, including condominium units and other cooperative interests in realty. Sponsors will be deemed to include successors who succeed to the rights and assume the obligations of sponsors.

(n) “Taxable status date” for a fiscal year means the January 5 that immediately precedes the commencement of such fiscal year, which is the date as of which the condition and ownership of real property determines eligibility of a dwelling unit for the abatement for such fiscal year.

§50-03. Eligibility for abatement.

(a) Primary residence abatement. Dwelling units owned by an owner, one of which is the primary residence of such owner, and which are not ineligible for the abatement pursuant to this section or § 467-a of the Real Property Tax Law, will be eligible to receive the primary residence abatement, in the amount set forth in §50-04(b), but in no case will any of the dwelling units owned by the same owner in a condominium development or a cooperative apartment corporation development receive the primary residence abatement if the owner owns more than three dwelling units in the development.

(b) Non-primary residence abatement. Any dwelling units that are owned by an owner in a condominium development or a cooperative apartment corporation development and which received the abatement in fiscal year 2011/12 and are otherwise eligible for the abatement, but are not eligible to receive the primary residence abatement pursuant to subdivision (a) of this section, will be eligible to receive only the non-primary residence abatement, in the amount set forth in §50-04(b), but in no case will any of the dwelling units owned by the same owner in a condominium development or a cooperative apartment corporation development receive the non-primary residence abatement if the owner owns more than three dwelling units in the development.

(c) Ineligibility of dwelling units in property receiving other exemption or abatement.

(1) Other exemption or abatement. Except as provided in paragraph (2) of this subdivision, a condominium dwelling unit that is receiving complete or partial real property tax exemption or abatement pursuant to any other State or local law, or a dwelling unit located in real property held in the cooperative form of ownership

that is receiving complete or partial real property tax exemption or abatement pursuant to any other State or local law, will not be eligible to receive the abatement.

(2) Exceptions. (i) For purposes of paragraph (1) of this subdivision, a condominium dwelling unit or property held in the cooperative form of ownership will be deemed not to be receiving complete or partial real property tax exemption or tax abatement if such unit or property is receiving benefits pursuant to any of the following sections of the Real Property Tax Law:

(A) §400 (real property owned by United States);

(B) §402 (United States or New York State property held under contract of sale);

(C) §404 (real property owned by the State of New York);

(D) §406 (real property owned by a municipal corporation);

(E) §408 (real property owned by school districts and boards of cooperative educational services);

(F) §410 (real property owned by special districts or property owners therein within district boundaries);

(G) §410-a (real property owned by special districts or property owners therein not within district boundaries);

(H) §412 (real property owned by public authorities);

(I) §412-a (real property owned by industrial development agencies);

(J) §416 (real property owned by the United Nations);

(K) §418 (real property owned by foreign governments);

(L) §420-a (real property owned by nonprofit organizations – mandatory class);

(M) §420-b (real property owned by nonprofit organizations – permissive class);

(N) §436 (real property owned by officers of religious denominations);

(O) §458 (real property owned by veterans);

(P) §458-a (real property owned by veterans – alternative exemption);

(Q) §462 (real property owned by religious corporations and used for residential purposes);

(R) §467 (real property owned by persons sixty-five years of age or over);

(S) §467-b (tax abatement for rent-controlled and rent regulated property occupied by senior citizens or persons with disabilities);

(T) §499-bbb (green roof tax abatement); and

(U) §499-bbbb (solar electric generating system tax abatement).

(ii) For purposes of paragraph (1) of this subdivision, a condominium dwelling unit or property held in the cooperative form of ownership will be deemed not to be receiving complete or partial real property tax exemption or tax abatement if such unit or property is receiving a tax abatement, but not an exemption, pursuant to §489 (alterations and improvements to multiple dwellings to eliminate fire and health hazards).

(d) Ineligibility based on ownership of more than three dwelling units in the same development.

(1) A dwelling unit will not be eligible for the abatement if, as of the applicable taxable status date, any owner of such dwelling unit is the owner, in whole or in part, of more than three dwelling units in the same condominium development or cooperative apartment corporation development. In such cases, none of the dwelling units owned by any such owner will be eligible for the abatement.

(2) In the following examples, assuming the board applies for the abatement for fiscal year 2013/14, the eligibility of the owner for an abatement will be determined as follows:

Example 1: A owns unit 101 in X Condominium Development. A also owns dwelling units 102 and 103 and a 30% ownership interest in unit 104, all in the same development as dwelling unit 101. No abatement will be granted for any of the dwelling units owned by A because A owns, in whole or in part, more than three dwelling units in the same development.

Example 2: Assume the same facts as in Example 1, except that A has no ownership interest in dwelling unit 104. The abatement may be granted for all of the dwelling units owned by A because A owns a total of only three dwelling units and therefore does not own more than three dwelling units in the same development.

Example 3: A owns dwelling units 101, 102 and 103, located in Building 1, which is included in Y Cooperative Corporation Development. A also owns dwelling unit 201, which is located in Building 2 in Y Cooperative Corporation Development. No abatement will be granted for any of the dwelling units owned by A because A owns more than three dwelling units in the same development.

Example 4: A and B together own dwelling unit 101 in Z Condominium Development. B alone also owns dwelling units 102, 103 and 104, which are all located in Z Condominium Development. No abatement will be granted for dwelling unit 101 or any of the other dwelling units owned by B because B, an owner of dwelling unit 101, owns, in whole or in part, more than three dwelling units in the same development.

(e) Ineligibility of dwelling unit transferred for purpose of receiving abatement.

(1) Determination by Commissioner. An application for abatement will be denied, and an abatement granted will be revoked retroactively, for any fiscal year, in the event that the Commissioner determines that the transfer of such dwelling unit to the owner who owned such dwelling unit as of the applicable taxable status date for such fiscal year was made primarily for the purpose of receiving the abatement.

(2) Basis for determination by Commissioner. In making such determination, the commissioner of finance may consider, among other factors, the relationship, if any, between the transferor and the transferee and whether the terms of the transfer are consistent with the terms generally found in transfers of comparable dwelling units.

(3) Restoration of taxes upon revocation of abatement. If an abatement is revoked retroactively pursuant to paragraph (1) of this subdivision, then the real property taxes that were abated will be restored with interest at the rate applicable by law to real property taxes on the affected real property accrued from the date on which such restored taxes would have been due and payable had the abatement not been granted, to the date of payment. Any such restored real property taxes and interest will be enforceable as a tax lien in accordance with the provisions of chapters 3 and 4 of title 11 of the Administrative Code.

(f) Sponsors. A dwelling unit owned by a party who is a sponsor in property held in the cooperative or condominium form of ownership as to which such party is a sponsor is not eligible to receive the abatement.

§50-04. Abatement percentage.

(a) Primary residence abatement. The amount of the abatement for dwelling units eligible for the primary residence abatement as set forth in subdivision (a) of §50-03 of this chapter will be the following percentage of the real property taxes attributable to or due on such dwelling units:

(1) Dwelling units in property whose average unit assessed value is less than or equal to \$50,000:

- (A) for fiscal year 2012/13, 25%;
- (B) for fiscal year 2013/14, 26.5%; and
- (C) for fiscal year 2014/15, 28.1%.

(2) Dwelling units in property whose average unit assessed value is more than \$50,000 but less than or equal to \$55,000:

- (A) for fiscal year 2012/13, 22.5%;
- (B) for fiscal year 2013/14, 23.8%; and
- (C) for fiscal year 2014/15, 25.2%.

(3) Dwelling units in property whose average unit assessed value is more than \$55,000 but less than or equal to \$60,000:

- (A) for fiscal year 2012/13, 20%;
- (B) for fiscal year 2013/14, 21.2%; and
- (C) for fiscal year 2014/15, 22.5%.

(4) Dwelling units in property whose average unit assessed value is more than \$60,000: for fiscal years 2012/13, 2013/14 and 2014/15, 17.5%.

(b) *Non-primary residence abatement.* The amount of the abatement for any dwelling units eligible for the non-primary residence abatement as provided in subdivision (b) of §50-03 of this chapter will be the following percentage of the real property taxes attributable to or due on such dwelling units:

(1) Dwelling units in property whose average unit assessed value is less than or equal to \$15,000:

- (A) for fiscal year 2012/13, 12.5%; and
- (B) for fiscal year 2013/14, 6.25%.

(2) Dwelling units in property whose average unit assessed value is more than \$15,000:

- (A) for fiscal year 2012/13, 8.75%; and
- (B) for fiscal year 2013/14, 4.375%.

(3) If none of the dwelling units owned by an owner in a condominium development or a cooperative apartment corporation development is the primary residence of such owner, then no abatement pursuant to this chapter will be allowed for such dwelling units for fiscal year 2014/15 or any subsequent fiscal year.

(c) *Average unit assessed value.* For purposes of this section, the average unit assessed value is determined as follows:

(1) For real property held in the cooperative form of ownership, the percentage of shares of the cooperative apartment corporation allocated to dwelling units, multiplied by the total assessed value of the real property of the entire cooperative apartment corporation development in which the dwelling unit is located, divided by the total number of dwelling units in the entire cooperative apartment corporation development as of the taxable status date for the fiscal year to which the abatement applies; and

(2) For real property held in the condominium form of ownership, the total assessed value of the dwelling units in the entire condominium development in which the dwelling unit is located, divided by the number of dwelling units in the entire condominium development in which the dwelling unit is located as of the taxable status date for the fiscal year to which the abatement applies.

(d) Real property tax attributable to or due on a dwelling unit. For purposes of this section, “the real property taxes attributable to or due on a dwelling unit” is the amount of real property taxes attributable to or due on the dwelling unit for the fiscal year for which the abatement is to be calculated after deduction for any exemption or tax abatement (other than the abatement authorized by section 467-a of the Real Property Tax Law and this chapter) attributable to or received by the dwelling unit.

(e) Examples of calculation of abatement for fiscal year 2013/14.

Example 1: To determine the abatement for A’s dwelling unit for fiscal year 2013/14:

Facts: A owns a dwelling unit, which is A’s primary residence, in Y Cooperative Apartment Corporation, a cooperative apartment corporation. The real property tax attributable to A’s dwelling unit for fiscal year 2013/14 is \$5,000. The actual assessed value of the property of Y Cooperative Apartment Corporation (the entire development) for fiscal year 2013/14 is \$5,000,000. 90% of the shares of Y Cooperative Apartment Corporation are allocated to dwelling units. As of January 5, 2013, there were a total of 100 dwelling units in Y Cooperative Apartment Corporation.

Calculation: In order to determine the abatement percentage to be used in the calculation, determine the average unit assessed value by multiplying the percentage of shares allocated to dwelling units by the total assessed value of the cooperative apartment corporation (the entire development), and then dividing by the total number of dwelling units in the cooperative apartment corporation as of the taxable status date:

$$\begin{aligned}\text{Step 1: } & 90\% \times \$5,000,000 = \$4,500,000 \\ \text{Step 2: } & \$4,500,000 / 100 = \$45,000.\end{aligned}$$

Because the average unit assessed value is less than \$50,000, the percentage to be applied is 26.5%, as provided in § 50-04(a)(1)(B). Therefore, the abatement for A’s dwelling unit for fiscal year 2013/14 is 26.5% of the real property tax attributable to A’s dwelling unit for fiscal year 2013/14, or:

$$26.5\% \times \$5,000 = \$1,325.$$

Example 2: To determine the abatement for B’s dwelling unit for fiscal year 2013/14:

Facts: B owns a condominium dwelling unit, which is B’s primary residence, in Z Condominium. The real property tax due on B’s dwelling unit for fiscal year 2013/14 is \$10,000. The total actual assessed value of the dwelling units in the entire condominium development in which B’s dwelling unit is located for fiscal year 2013/14 is \$9,000,000. As of January 5, 2013, there were a total of 100 dwelling units in the condominium development in which B’s dwelling unit is located.

Calculation: In order to determine the abatement percentage to be used in the calculation, determine the average unit assessed value by dividing the total assessed value of the dwelling units in the entire

condominium development by the number of dwelling units in the condominium development as of the taxable status date:

$$\underline{\$9,000,000 / 100 = \$90,000.}$$

Because the average unit assessed value is more than \$60,000, the percentage to be applied is 17.5%, as provided in § 50-04(a)(4). Therefore, the abatement for B's dwelling unit for fiscal year 2013/14 is 17.5% of the real property tax due on B's dwelling unit for fiscal year 2013/14, or:

$$\underline{17.5\% \times \$10,000 = \$1,750.}$$

§50-05. Application for abatement.

(a) Application for fiscal year 2012/13; where no application is required.

(1) Cooperatives that received the abatement for fiscal year 2011/12.

(A) The board of a cooperative apartment corporation that received the abatement for fiscal year 2011/12 was not required to file an application for the abatement for fiscal year 2012/13.

(B) Basis for abatement if election made on information return. If a cooperative apartment corporation described in subparagraph (A) filed an information return on or before February 15, 2012 pursuant to the requirements of section 11-2105(g) of the Administrative Code and elected that the return be deemed an application for the abatement for fiscal year 2012/13, the abatement for fiscal year 2012/13 will be based on the information contained in such information return.

(C) Basis for abatement if no election made on information return. If a cooperative apartment corporation described in subparagraph (A) filed an information return on or before February 15, 2012 pursuant to the requirements of section 11-2105(g) of the Administrative Code and did not elect that the return be deemed an application for the abatement for fiscal year 2012/13, the abatement for fiscal year 2012/13 will be based on the information contained in such information return, or on the information included in the application for the abatement that the board filed in calendar year 2011, or both.

(D) Basis for abatement if no information return filed. If a cooperative received the abatement for fiscal year 2011/12, but did not file an information return on or before February 15, 2012 pursuant to the requirements of section 11-2105(g) of the Administrative Code, then the abatement for fiscal year 2012/13 will be based on the information included in the application for the abatement that the board filed in calendar year 2011, if any.

(2) Condominiums that received the abatement for fiscal year 2011/12. If the board of a condominium that received the abatement for fiscal year 2011/12 did not file a timely application for the abatement for fiscal year 2012/13, the abatement for fiscal year 2012/13 will be based on the information included in the application for the abatement that the board filed in calendar year 2011.

(3) Notwithstanding any other provision of this subdivision, no abatement will be granted for fiscal year 2012/13 to any dwelling unit that was not eligible for the abatement as of January 5, 2012, the taxable status date for fiscal year 2012/13.

(b) Application for fiscal years 2013/14 and 2014/15.

(1) Fiscal year 2013/14. No abatement will be granted for fiscal year 2013/14 to any dwelling unit that was not eligible for the abatement as of January 5, 2013, the taxable status date for fiscal year 2013/14.

(2) Fiscal year 2014/15. A board must file an application for an abatement for fiscal year 2014/15 no later than February 15, 2014. No abatement will be granted for fiscal year 2014/15 to any dwelling unit that is not eligible for the abatement as of January 5, 2014, the taxable status date for fiscal year 2014/15.

(c) Supplemental application from owner. The Commissioner may require an owner to submit a supplemental application with additional information necessary to determine whether the applicant is eligible for an abatement, including but not limited to proof of primary residence in a form and format and by a deadline determined by the Commissioner.

(d) Owner designated as applicant. For purposes of paragraph (a) of subdivision 1 of section 467-a of the Real Property Tax Law, an owner is designated as an applicant.

§50-06. Primary residence.

(a) Primary residence of owner. For purposes of determining eligibility for the primary residence abatement as described in subdivision (a) of §50-03 of this chapter, a dwelling unit must serve as the primary residence of one or more of the owners of the dwelling unit as of the taxable status date for the fiscal year to which the abatement applies, and the conveyance of a dwelling unit subsequent to such taxable status date will not affect eligibility of the dwelling unit for the abatement for the fiscal year to which the taxable status date applies.

(b) Presumption of primary residence. (1) Except as provided in paragraph (2) of this subdivision, a dwelling unit will be presumed to serve as the primary residence of one or more of the owners of the dwelling unit for a particular fiscal year if either:

(A) the dwelling unit receives a real property tax exemption pursuant to section 425 of the Real Property Tax Law for such fiscal year; or

(B) an owner of the dwelling unit entered the address of the dwelling unit as such owner's permanent home address on a New York State Resident Income Tax Return filed during the calendar year immediately preceding the calendar year in which such fiscal year commences.

(2) Notwithstanding the presumption provided in this subdivision, the Commissioner may determine based on additional facts that a dwelling unit is not the primary residence of one or more of the owners of the dwelling unit.

(3) If the Commissioner determines that a dwelling unit will not be presumed to serve as the primary residence of one or more of the owners of the dwelling unit because the dwelling unit does not meet either of the criteria contained in paragraph (1) of this subdivision, the owner may file a supplemental

application as described in subdivision (c) of §50-05 of this chapter to prove eligibility for the primary residence abatement.

(c) *Ownership of dwelling unit by entity other than an individual.* Notwithstanding any other provision of these rules, for purposes of this chapter and section 467-a of the Real Property Tax Law, a dwelling unit can be the primary residence only of individuals, and cannot be the primary residence of a corporation, partnership or any other entity.

(d) *Space used for parking or storage.* A cooperative apartment corporation or condominium unit used solely for parking vehicles or for storage cannot be the primary residence of an owner.

§50-07. Denial or revocation of abatement for property in arrears.

(a) *Unpaid charges requiring denial or revocation of abatement.* An application for the abatement will be denied, and an abatement granted will be revoked retroactively, in the event that the Commissioner determines that real property taxes, water and sewer charges, assessments, payments in lieu of taxes and/or other municipal charges, including interest on any of the aforementioned amounts, and including tax liens that have been sold by the City, totaling in the aggregate at least \$1,000, are in arrears on a condominium dwelling unit or cooperative apartment corporation property. For purposes of this subdivision, taxes and/or charges that are in arrears do not include any taxes and/or charges that are included in a written agreement to pay such taxes and/or charges in installments with the Department of Finance or, in the case of water and sewer charges, the New York City Department of Environmental Protection or the New York City Water Board, if all payments that have come due under such agreement have been made.

(b) *Restoration of taxes upon revocation of abatement.* If an abatement is revoked retroactively pursuant to subdivision (a) of this section, then the real property taxes that were abated will be restored and must be paid to the Commissioner of Finance no later than the due and payable date provided on a notice of the amount payable, which may be in the form of a statement of account or an amended bill for real property taxes. Such notice will be mailed by the Commissioner of Finance to the address for the affected condominium unit or cooperative apartment corporation property on record with the Department for mailing statements of account or real property tax bills. The amount payable will constitute a tax lien on the affected cooperative apartment corporation property or condominium unit as of the due and payable date provided on such notice. If the amount payable is not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on the affected condominium unit or cooperative apartment corporation property will be imposed from the due and payable date provided on such notice to the date of payment, and such amount payable will be enforceable as a tax lien in accordance with provisions of chapters 3 and 4 of title 11 of the Administrative Code.

(c) *Effective date of revocation of abatement.* In no event will revocation of an abatement pursuant to this section be effective prior to the earliest date on which any of the unpaid taxes or charges that are the basis for the revocation were first due and payable.

§50-08. Correction of abatement.

(a) *Erroneous determination on abatement*

(1) *Erroneous abatement.* If the Commissioner determines that a unit that received the abatement was not entitled to receive such abatement (an “erroneous abatement”), then the Commissioner will restore the real property taxes abated by the erroneous abatement.

(2) *Erroneous denial of abatement.* If the Commissioner determines that a dwelling unit was incorrectly denied an abatement to which the unit was entitled, then the Commissioner will apply the abatement in accordance with the procedures set forth in § 24-04 of this title to an installment or installments of real property taxes of the condominium dwelling unit or the cooperative apartment corporation property in which the affected cooperative apartment corporation dwelling unit is located in the amount of the abatement to which the dwelling unit was entitled. The Commissioner will mail a notice of the application of the abatement, which may be in the form of a statement of account or an amended bill for real property taxes, to the address for the affected condominium dwelling unit or cooperative apartment corporation property on record with the Department for mailing statements of account or real property tax bills.

(b) *Erroneously calculated abatement.*

(1) *Excessive abatement.* If the Commissioner determines that a dwelling unit received an abatement in an amount greater than the amount to which the dwelling unit was actually entitled (an “excessive abatement”), then the Commissioner will restore real property taxes in an amount equal to the difference between the abatement originally granted and the amount to which the dwelling unit was actually entitled.

(2) *Insufficient abatement.*

(A) *Abatement credit.* If the Commissioner determines that a dwelling unit received an abatement in an amount less than the amount to which the dwelling unit was actually entitled, then the Commissioner will apply an abatement credit in accordance with the procedures set forth in § 24-04 of this title to real property taxes of the condominium dwelling unit or the cooperative apartment corporation property in which the affected cooperative apartment corporation dwelling unit is located, in an amount equal to the difference between the abatement originally granted and the amount to which the dwelling unit was actually entitled. The Commissioner will mail a notice of the application of the abatement credit, which may be in the form of a statement of account or an amended bill for real property taxes, to the address for the affected condominium dwelling unit or cooperative apartment corporation property on record with the Department for mailing statements of account or real property tax bills.

(B) *Application of abatement credit as timely payment of installment.* If the installment of real property taxes to which the Commissioner applies the abatement credit became due and payable during the fiscal year as to which the Commissioner determines that there is an abatement credit, or during any fiscal year thereafter, the Commissioner may apply the abatement credit as if the credit were a timely payment of the tax installment to which the credit is applied, such that no interest will accrue on the amount of the tax installment satisfied by the abatement credit.

(c) *Lien for restored taxes.* Real property taxes restored pursuant to either paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of this section must be paid to the Commissioner of Finance no later than the due and payable date provided on a notice of the amount payable, which may be in the form of a statement of account or an amended bill for real property taxes. Such notice will be mailed by the

Commissioner of Finance to the address for the affected condominium unit or cooperative apartment corporation property on record with the Department for mailing statements of account or real property tax bills. The amount payable will constitute a tax lien on the affected cooperative apartment corporation

property or condominium unit as of the due and payable date provided on such notice. If the amount payable is not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on the affected condominium unit or cooperative apartment corporation real property will be imposed from the due and payable date provided on such notice to the date of payment, and such amount payable will be enforceable as a tax lien in accordance with the provisions of chapter 3 and chapter 4 of title 11 of the Administrative Code.

(d) *Erroneous or excessive abatement resulting from false information or omission on application.*

Notwithstanding the provisions of subdivision (c) of this section relating to interest, if the Commissioner determines that a unit received an erroneous or excessive abatement as the result of a false statement or false information or the omission of a material matter with respect to an application for the abatement (including a cooperative information return that a board elected to be deemed an application), then any real property taxes that are restored pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of this section will be restored with interest at the rate applicable by law to real property taxes on the affected real property. Such interest will be accrued from the date on which such restored taxes would have been due and payable had the erroneous or excessive abatement not been granted, to the date of payment. Any such interest will be enforceable as a tax lien in accordance with the provisions of chapter 3 and chapter 4 of title 11 of the Administrative Code.

§50-09. Audit authority. The Commissioner may inspect or examine the books and records of the owner or the board relevant to determining eligibility of a unit for the abatement, including the amount of abatement to which a unit may be entitled.

S/S _____
David M. Frankel
Commissioner of Finance

**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: Partial Tax Abatement for Cooperative or Condominium Real Property

REFERENCE NUMBER: 2013 RG 010

RULEMAKING AGENCY: DOF

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
Acting Corporation Counsel

Date: August 16, 2013

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Partial Tax Abatement for Cooperative or Condominium Real Property

REFERENCE NUMBER: DOF-6

RULEMAKING AGENCY: DOF

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/ Hunter Gradie
Mayor's Office of Operations

August 19, 2013
Date