

## New York City Department of Finance

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?** The Department of Finance proposes revision of the rules relating to the partial tax abatement for residential real property held in the cooperative or condominium form of ownership. The current rules provide that a condominium or cooperative apartment is eligible for this partial tax abatement if it is the primary residence of an individual but not if the real property is owned by a corporation, partnership or other entity. This proposed rule amendment will allow for a waiver of this requirement if the applicant demonstrates that there are security concerns that necessitate ownership by a limited liability company (“LLC”) or limited partnership (“LP”) and the applicant also meets other eligibility requirements.

**When and where is the hearing?** The Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 11:00am on January 29, 2019. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, N.Y. 11201.

**How do I comment on the proposed rule?** Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to the Department of Finance through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [laroset@finance.nyc.gov](mailto:laroset@finance.nyc.gov).
- **Mail.** You can mail written comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, N.Y. 11201, Attn: Timothy LaRose.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Timothy LaRose, at (718) 488-2491.
- **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 (718) 488-2007, or you can sign up in the hearing room before the hearing begins on January 29, 2019. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** The deadline to submit written comments is January 29, 2019.

**What if I need assistance to participate in the hearing?** You must tell us if you need a reasonable accommodation based on a disability, and if you need an American Sign Language (ASL) interpreter or other assistance. Materials in alternative formats, ASL interpreters, real-time captioning and other accommodations will be available upon request. Please provide at least 72 hours’ notice prior to the hearing to ensure availability. Please contact Joan Best; by telephone, by calling (718) 488-2007; TTY (212) 639-9675 or by e-mail at [bestj@finance.nyc.gov](mailto:bestj@finance.nyc.gov) to make your accommodation requests.

The meeting will be held at 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, New York 11201. The back entrance on Pearl Street is accessible to persons with disabilities. Accessible restrooms are available.

In order to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are requested to refrain from using perfume, cologne, and other fragrances.

**Can I review the comments made on the proposed rule?** You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3<sup>rd</sup> Floor, Brooklyn, N.Y. 11201.

**What authorizes Department of Finance to adopt this rule?** New York State Real Property Tax Law section 467-a and New York City Charter (“Charter”) section 389(b) and section 1043 authorize the Department of Finance to adopt this proposed rule.

**Where can I find the Department of Finance’s rules?** The Department of Finance’s rules can be found in Title 19 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Department of Finance must meet the requirements of § 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of § 1043 of the Charter.

## **STATEMENT OF BASIS AND PURPOSE**

The purpose of this proposed rule amendment is to allow for a waiver of the current requirement that in order to be eligible for a partial tax abatement of real property taxes for qualifying property held in the cooperative or condominium form of ownership, the qualifying property must be owned by an individual. This requirement will be waived if the apartment or its shares are owned by a LLC, or LP and the applicant demonstrates that there are security concerns that necessitate ownership by such an entity.

The enabling legislation for partial tax abatement for residential real property held in the cooperative or condominium form is set forth in Real Property Tax Law Section 467-a which was originally enacted by chapter 273 of the Laws of 1996 and as amended by chapter 4 of the Laws of 2013.

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 department unless otherwise specified or unless the context clearly indicates otherwise.

## **AMENDMENT TO RULES RELATING TO RESIDENTIAL REAL PROPERTY HELD IN THE COOPERATIVE OR CONDOMINIUM FORM OF OWNERSHIP**

Section 1. Subdivision (k) of section 50-02 of Chapter 50 of Title 19 of the Rules of the City of New York is amended to read as follows:

(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, limited liability company, partnership or other entity, unless a waiver is granted pursuant to subdivision (d) of section 50-05 for a limited liability company or limited partnership.

Section 2. Subdivision (d) of section 50-05 of Chapter 50 of Title 19 of the Rules of the City of New York is relettered as subdivision (e), and a new subdivision (d) is added, to read as follows:

(d) Waiver of requirement that dwelling unit be owned by an individual. (1) A limited liability company or limited partnership may submit an application for a waiver of the requirement that an owner of a dwelling unit must be an individual to be eligible for the abatement. The application will be in a form and format and by a deadline determined by the Commissioner. An applicant will be eligible for a waiver if the application demonstrates that:

- A. security concerns necessitate ownership by a limited liability company or a limited partnership because disclosure of an individual's residence could reasonably put the individual in danger; and
- B. the dwelling unit is not used for commercial purposes; and
- C. the dwelling unit serves as the primary residence of one or more of the partners or members; and
- D. the partners or members that reside in the dwelling unit personally pay all of the property taxes and other costs associated with the property's ownership.

(2) The Commissioner may request additional information if the Commissioner deems such information relevant to the application. Such additional information will be provided within sixty days of the request. The Commissioner may deny an application for a waiver. The Commissioner will inform the applicant of the reasons for the denial in a written notice and advise the applicant that it has the right to appeal the denial. The appeal must be submitted to the Commissioner or his or her designee within 15 business days of the mailing of the notice.

Section 3. Subdivision (c) of section 50-06 of Chapter 50 of Title 19 of the Rules of the City of New York is amended to read as follows:

(c) Ownership of dwelling unit by entity other than an individual. Notwithstanding any other provision of these rules, for purposes of this chapter and § 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, limited liability company, partnership or any other entity unless a waiver is granted pursuant to subdivision (d) of section 50-05.

**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:** Waiver of Individual Ownership Requirement for Partial Real Property Tax Abatement in Coop or Condominium Buildings

**REFERENCE NUMBER:** 2018 RG 124

**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: December 17, 2018  
Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE: Waiver of Individual Ownership Requirement for Partial Real Property  
Tax Abatement in Coop or Condominium Buildings**

**REFERENCE NUMBER: DOF-40**

**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/ Fiona Peach  
Mayor's Office of Operations

December 17, 2018  
Date