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NYC Department of Finance
Legal Affairs Division
dofrules@finance.nyc.gov

Re: Amendment of Rules Relating to Request for Review Process and Clerical Error Administrative Review Process

Dear DOF:

I am writing to provide comments on the Department of Finance's (DOF) proposed amendments to Chapter 53 of Title 19 of the Rules of the City of New York, concerning the correction of certain errors affecting assessments or taxes on real property.

We represent hundreds of New York City taxpayers, including residents and voters, in helping to keep their property taxes fair and equitable, especially in the face of overassessment and overtaxation.

First and foremost, I appreciate the DOF's efforts to enhance the efficiency and integrity of the property tax assessment system. I understand the Department's concerns about ensuring finality in taxation matters and preventing the potential misuse of the correction process. However, I respectfully disagree that the proposed amendments adequately address these issues without unduly disadvantaging taxpayers who may have been adversely affected by errors.

1. Limitation on Eligible Filers (Section 3)

The proposed restriction that only property owners or other qualified filers who owned the property during the applicable tax year may file a request for administrative review could inadvertently penalize new property owners. Errors in assessments can have a lasting impact on a property's tax liability, and new owners may inherit these issues without recourse under the proposed rule.

Recommendation: I suggest that the DOF consider allowing new property owners to file correction requests for errors that continue to affect the property's current assessment or tax liability. This approach ensures that all taxpayers have the opportunity to address inaccuracies, promoting fairness and equity in the taxation system.

2. Reduction of the Time Frame for Corrections (Section 4)

Reducing the correction window from six years to effectively three years may not provide sufficient time for property owners to discover and address errors, especially those that are not immediately apparent. The exceptions for extenuating circumstances are narrow and may not cover situations where taxpayers, acting in good faith, were unaware of the errors within the shortened time frame.

Recommendation: I propose maintaining a longer correction period, such as four to six years, to balance the need for finality with the taxpayers' right to seek redress for errors. Alternatively, expanding the exceptions to include circumstances where the error's discovery was delayed despite the taxpayer's due diligence could offer a fair compromise.

3. Prohibition of Corrections After Prior Determinations (Section 5)

Preventing corrections when a taxpayer has previously sought relief through the Tax Commission or judicial review may inadvertently bar the correction of errors that were not identified or addressed in those proceedings. Taxpayers may not have been aware of certain errors at the time or may not have had the opportunity to present them fully.

Recommendation: It would be equitable to allow corrections for errors that were not the subject of prior determinations on the merits. This ensures that taxpayers are not unfairly precluded from rectifying issues that were previously unknown or unaddressed.

4. Redefinition of "Clerical Errors" and "Errors in Description" (Section 6)

The proposed narrowing of these definitions and the removal of illustrative examples could create ambiguity and hinder taxpayers' understanding of what constitutes an eligible error. Clear examples help taxpayers navigate the correction process and ensure that legitimate errors are addressed.

Recommendation: I recommend reinstating detailed definitions and examples to provide clarity. This approach would assist taxpayers in determining eligibility and reduce unnecessary filings, thereby improving administrative efficiency.

Conclusion

While I recognize the DOF's intention to streamline the correction process and prevent its misuse, it is crucial to ensure that taxpayers' rights to fair and accurate assessments are preserved. Making the correction process more restrictive may inadvertently harm taxpayers who have been subjected to errors through no fault of their own.

I respectfully urge the Department to reconsider the proposed amendments and explore alternative solutions that address administrative concerns without compromising taxpayer fairness. Enhancing, rather than constraining, the correction mechanisms would promote equity and trust in the property tax system.

Thank you for considering my comments. I am available to discuss these suggestions further and contribute to a solution that serves both the interests of the Department and the taxpayers of New York City.

Sincerely,

Benjamin M. Williams