July 8, 2026

NY Tax Law § 1350 imposes a pied-à-terre tax on certain NYC properties that are generally not used as a “primary residence” by a property owner, a property owner’s immediate family member, a lessee, or a sublessee.

NY Tax Law § 1354(e)(1)(A) and NYC Admin. Code § 11-3205(i)(1) allow the NYS and NYC Departments of Finance to promulgate rules addressing the “illness or death” of a property owner.

Internal Revenue Code (IRC) § 121 is a federal tax provision for a taxpayer’s “principal residence,” which is similar to the “primary residence” concept in the pied-à-terre tax.

The following exceptions under IRC § 121 may extend principal residence status, which the pied-a-terre tax regulations should consider as similarly applying to a property owner, immediate family member, lessee, or sublessee for purposes of extending primary residence status under the pied-à-terre tax:

1. Death (IRC §§ 121(b)(4) and 121(d)(2)),

2. Divorce (IRC § 121(d)(3)), given that an ex-spouse is not an immediate family member,

3. Move to a nursing home or other state-licensed facility (IRC § 121(d)(7)),

4. Serving in the uniformed military services, United States Foreign Service, or the intelligence community (DNI, CIA, NSA, DIA, etc.) (IRC § 121(d)(9)),

5. Serving in the Peace Corps (IRC § 121(d)(12)),

6. Temporary absence due to change of employment, health conditions, or unforeseen circumstances, including natural or man-made disasters, acts of war or terrorism, multiple births resulting from the same pregnancy, or a facts and circumstances test for other events such as incarceration (IRC §§ 121(b)(5)(C)(ii)(III) and 121(c)(2)(B)), and

7. Transfer to a bankruptcy estate (Treasury Regulations § 1.1398-3).

Thank you for your attention to this matter.

Sincerely,
Libin Zhang