

New York City Department of Finance Legal Affairs Division Real Property and Legal Counsel Unit

Statutory Framework of the NYC Property Tax System

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Statutory Overview

- Property tax system in NYC is governed by various state and local statutes
- State constitutional provisions, statutes and regulations provide the basic framework for the property tax system statewide and establish procedures for its administration
- Local laws and regulations supplement the state law provisions and provide procedures specific to NYC
- **Main Statutes**
 - New York State Constitution (Constitution), outlines fundamental principles of state government
 - New York State Real Property Tax Law (RPTL), contains provisions governing the property tax system throughout the State
 - New York City Charter (Charter), the municipal charter of the city.
 - New York City Administrative Code (Admin Code), contains the codified local laws.
 - Rules of the City of New York (RCNY), contains the compiled rules and regulations of city government agencies.

NYS Constitution - Delegation of Taxing Authority

- All taxing authority in the State is vested in the State Legislature
- Local municipalities such as NYC may not levy or collect taxes without State authorization
- Authority to levy and collect taxes must be delegated by the State to local municipalities by specific legislation – Article 3, Section 23
- New York State General City Law authorizes cities to impose a real property tax – Article 2-1, Section 20(4)
- Real property tax deemed by the State to be a fundamental power vested in a city upon its creation
- Local municipalities granted greater flexibility as to rate and amount of revenues to be produced from the property tax than from other taxes

NYS Constitution - Local Governments

- NYS Legislature empowered to provide for the creation and organization of local governments to secure the rights, powers, privileges and immunities granted by the Constitution
- This includes the levy, collection and administration of local taxes authorized by the legislature – Article 9, Section 2

NYS Constitution - Assessment Provisions

- For purposes of levying a property tax, assessments may not exceed the full value of property
- Authorizes State Legislature to provide for supervision, review and equalization of assessments for the purposes of taxation - Article 16, Section 2
- Property tax exemptions may only be granted by general state law
 - Allows exemptions to be altered or repealed (except those provided for property held by not-for-profit organizations and used exclusively for religious, educational or charitable purposes)

NYS Constitution - Tax and Debt Limitations

- Constitution also sets the maximum amount of real property taxes that may be levied in a local jurisdiction for operating costs of the jurisdiction
- The cost is a percentage of the most recent five-year average of the full value of taxable real property
- In NYC the percentage is 2.5% - Article 8, Section 10
- Constitution also restricts the total amount of indebtedness in NYC to 10% of the five-year average of the full value of taxable real property
- Indirectly sets a separate property tax limit on the amount allowed to be levied for the payment of debt service
- The two amounts combined constitute the amount that may be levied on real property in NYC in any year

Real Property Tax Law

- State law that contains the main provisions that govern the structure and administration of the property tax system throughout the State
- Certain provisions in NYC Charter are inconsistent with State law as they relate to assessment dates and due dates
- In some circumstances NYC is exempted from State law requirements

Organizational Structure of RPTL

- Article 1 – Sets forth the definitions used in the statute
 - Local municipalities with the authority to assess property are referred to as assessing units
- Article 2- Establishes the state agency responsible for overseeing real property assessment and taxation practices throughout the State
 - Original name was the State Board of Equalization and Assessment
 - Now the Office of Real Property Tax Services under the State Department of Taxation and Finance
 - ORPTS is directed to adopt rules and regulations for the preparation of the assessment roll and to advise and direct assessing units with respect to their duties
- Article 3 – Provides for the methods and standards of assessment

Organizational Structure of RPTL (cont'd)

- Article 4 – Defines those properties that are exempt from the real property tax
 - Divided between exemptions provided for public property, exemptions provided for private property, and abatements
 - Generally intended to provide relief to categories of taxpayers, such as the elderly, or to encourage the development of housing or economic development in the City
- Article 5 – Contains the requirements for annually preparing the assessment roll
 - The City Charter provisions regarding publication of the assessment roll and review of assessments prevail
- Article 6 – Details the assessment and tax treatment of special franchise property located in the public right of way

Organizational Structure of RPTL (cont'd)

- Article 7 – Provides the grounds and procedures for judicial review of property tax assessments
- Article 9 – Relates to the levy and collection of taxes
- Article 12 – Requires the State to calculate state equalization rates for all taxing jurisdictions in the State
 - In NYC the calculation is done for each class of property and is known as the class ratio
 - Represents the State's opinion of the level of assessment in each jurisdiction
 - Used for various purposes including to prove inequality in court proceedings

Organizational Structure of RPTL (cont'd)

- Article 18 – Establishes NYC as a special assessing unit
 - Nassau County is the only other special assessing unit in the State
 - Establishes four classes of property in the City and provides for the treatment of properties within each class
 - Also provides for procedures to determine the portion of the entire property tax levied in the City that each class must pay

RPTL Article 3 — Standard of Assessment

- All real property within the state is subject to real property taxation unless exempt by law. RPTL § 300
- Assessments will be against the real property itself, which is subject to sale for any unpaid taxes. RPTL § 304
- All real property in each assessing unit shall be assessed at a uniform percentage of market value (fractional assessment). RPTL § 305
 - In NYC each class shall be assessed at a uniform percentage of value
 - Each class may be assessed at a different uniform percentage of value
- Definition of assessment per RPTL § 102(2)
 - Determination made by assessor of
 - Valuation of real property including valuation of exempt real property and
 - Whether or not real property is subject to taxation

Real Property Subject to Taxation

Section 102(12) of the RPTL defines real property as follows:

- Land itself, above and under water, including trees and undergrowth thereon and mines, minerals, quarries and fossils in and under
- Buildings (structures) upon, under or above the land or affixed thereto (i.e. bridges, piers)
- Surface, underground or elevated railroads and railroad structures made, laid, or placed in, upon, above or under any public or private street or place
- Mains, pipes and tanks laid or placed in, upon, above or under a street or place or any property, substance or product capable of transportation or conveyance
- Boilers, ventilating apparatus, elevators, plumbing, heating, lighting and power generating apparatus, shafting and equipment for distributing heat, light, power, gasses and liquids
 - Does not include moveable machinery or equipment used for trade or manufacture and not supporting building, structure etc. and removable without material injury to the building/structure

Real Property Subject to Taxation (cont'd)

- Trailers or mobile homes, whether for residential, business, commercial or office purposes except
 - If located in the assessing unit for less than 60 days
 - Unoccupied and for sale or
 - RVs that are 400 sq feet or less, self propelled or towable by car or light duty truck and used as temporary living quarters for recreation, camping, travel or seasonal use
 - Trailer or mobile home value will be include in land assessment where it is located
- Telephone and telegraph lines, wires, poles, supports, inclosures for electrical conductors upon, above and underground, when owned by a telephone company
 - Does not include station connections
- Lines, wires, poles, supports, inclosures for electrical conductors upon, above and underground, when not owned by a telephone company
 - Does not include station connections, fire and surveillance alarm system property, property for transmitting news wire services, property used for transmitting news or entertainment radio, TV, cable TV signals

Special Franchise Real Property

- The right or permission to construct, maintain, or operate in, under, above, upon or through any public street, highway, water or other public place mains, pipes etc. for conducting water, steam, light, power, electricity, gas or other substance
- Includes value of the tangible property in, under, above, upon, or through any public street, highway, water or other public place in connection therewith

Provisions of RPTL Specific to NYC

Property Class Definitions

- Class One Property
 - All one, two, and three family residential property
 - Includes property partially used for nonresidential purposes but primarily residential
 - Residential real property not more than three stories in height held in condominium form of ownership, so long as no dwelling unit therein previously was on an assessment roll not as a condo
 - One family house structures owned by occupant on land held in cooperative ownership by owner occupiers that
 - Were bungalow colonies in existence prior to 1940 and
 - Land is held in cooperative ownership for maintaining one family residences for members own use
 - Vacant land
 - other than in Manhattan so long as if it is not zoned residential, it is immediately adjacent to property with a residential structure and owned by the same owner prior to and since 1/1/1989 not exceeding 10,00 square feet and
 - If in Manhattan north of or adjacent to north side of 110th St. so long as the vacant land was within this class on the assessment roll of January 5, 2008 and the owner entered into a recorded agreement with a governmental entity on or before December 31, 2008 requiring affordable housing construction under the Private Housing Finance Law

Provisions of RPTL Specific to NYC (cont'd)

- Class Two Property
 - All residential real property not class one, except hotels, motels and other similar commercial property
 - Includes most Co-ops, Condos and Rentals
- Class Three Property
 - Utility real property
- Class Four Property
 - All other real property not class one, two or three
 - Includes commercial and industrial properties

Class Shares

- RPTL § 1803-a specifies the procedure for adjusting class shares
 - Limited discretion to adjust these numbers
- Calculation involves establishing the current base proportion (proportion of tax levy) for each class based on changes in market value of property
 - Limitations on how much current base proportion of any class may grow in a single year - generally 5% over adjusted base proportion
 - Amended annually – FY 19 – 0.5%
- The base proportions are then adjusted to account for physical changes to property in the class
- City Council will annually certify to the State base proportion, adjusted base proportion for each class
- City Council required to allocate to each class a share of the property tax equal to the adjusted base proportion. RPTL § 1803-b

Caps on Assessed Value Increases

- RPTL provides limitations on assessed value growth for certain classes of property. RPTL §1805
 - Limits the increases in assessed value that may occur in any year
- Class one property
 - Assessed value may not increase more than 6% from the previous year's assessment roll
 - Assessed value may not increase more than 20% in any five-year period
- Class two property with fewer than 11 residential units
 - Assessed value may not increase more than 8% from the previous year's assessment roll
 - Assessed value may not increase more than 30% in any five-year period
- Caps shall not apply to new property, additions, or improvements of existing property or formerly exempt property on the roll or removing property due to fire, demolition, destruction, or new exemption
 - Alterations for class two property with fewer than 11 units - 1/3 of increase is not capped; remainder is capped

Transitional Assessments

- Class two property (with 11 or more units) and class four property are subject to a transitional assessment
 - Provides that assessed value increases on properties are phased in over five years
 - 20% phased in each year
- If in any year a transitional assessment exceeds actual assessment, taxes will be based on the actual assessment
 - Multiple increases for different years may be phased in at the same time
- No transitional assessment will be computed in a year where the property was subject to the cap for class one or class two with less than 11 units. RPTL § 1805(4)

New York City Statutes - Department of Finance Duties

- The New York City Charter and Administrative Code contain additional provisions regarding the property tax which must be read in conjunction with the State statutes
- The Department of Finance is responsible to perform the functions and operations of the City that relate to the administration and collection of all taxes, and assessments and charges imposed by the City. Charter § 1504.
- The Department of Finance is required to assess for taxation all taxable real property in the city and to prepare the assessment rolls. Charter § 1504.
 - DOF has powers and duties with respect to the assessment of real property. Charter § 1505.
- DOF is required to maintain an office in each borough for the performance of its assessment duties. Charter § 1505.

Assessor Duties

- Assessors are responsible for determining (a) the taxable status of real property, and (b) the valuation of real property (including tax-exempt property) as of the taxable status date. (Charter §1506).
 - Includes whether property lies within geographical boundaries of the city and whether the property is real property
- The taxable status date and valuation date in the City is January 5th each year. Charter § 1507.
 - All property must be assessed according to its condition, ownership and use as of the same point in time
 - Assessed value is based on existing use as of taxable status date, not highest and best use
- Assessors shall revalue, reassess, or update the assessment of each parcel of taxable and nontaxable real property every year. Admin Code §11-207
 - Revaluation, reassessment or update is defined as the systematic review of the assessments of all locally assessed properties, valued as of the valuation date of the assessment roll containing those assessments. RPTL § 102(12-a).
- Assessors shall personally examine each parcel of real property at least every third assessment cycle (taxable property) or fifth cycle (non-taxable). Admin Code § 11-207

Reporting Requirement by Borough Offices

- A detailed statement of all taxable real estate must be submitted by the borough offices to the Commissioner of Finance. This statement must:
 - list every parcel within their district by street, section/ward, block, lot and map or identification number.
 - The sum for which, in their judgement, each separately-assessed parcel would sell for under ordinary circumstances (1) if it were wholly unimproved, (2) with current improvements.
 - Include any other information as required by the Commissioner of Finance.
- Admin Code §11-207(b)
- The valuation of property may be adjusted by the Commissioner of finance to equalize the valuation of properties between boroughs and throughout the City. Admin Code § 11-212

Assessment Timeline

- **June 1st:** Real Property Income and Expense statements are required to be filed for income-producing property. Admin Code § 11-208.1
- **July 1st:** Assessment for coming fiscal year commences (or, if falling on a weekend or holiday, on the next business day immediately following). (Charter §1508)
- **Jan 5th:** Taxable status of real property is affixed for the coming fiscal year (Charter §1507); assessed value of real property in each borough computed and delivered to Commissioner of Finance. (Charter §1509)
- **Jan 15th:** Books of record with assessed valuation for coming fiscal year (tentative assessment roll) are opened to the public. (Charter §1510)
 - Before the books of record are opened for public inspection, the Commissioner of Finance shall equalize the valuations of property to establish a just and equal relation between properties across the city. (Admin Code §11-212(a))
- **March 1st:** Books of record closed. Ends the period where the Commissioner of Finance may add any omitted residential real estate, or increase and decrease valuation for equalization purposes. (Charter §1512)
- **May 10th:** Ends the period where the Commissioner of Finance may add any omitted non-residential real estate, or increase and decrease valuation for equalization purposes. (Charter §1512)
- **June 20th:** Assessment roll for each borough to be delivered by Commissioner of Finance to City Council. (Charter §1514)
- **June 30th:** Warrants authorizing tax collection to be signed by the Public Advocate and City Clerk, and delivered to the Commissioner of Finance alongside corrected and final assessment rolls, to be filed immediately in the appropriate borough office. (Charter §1518)
- **July 1st:** Start of the fiscal year. (Charter § 226). First installment of annual taxes due. (Charter §1519-a)

Application Deadlines for Exemptions

- February 15
 - Cooperative/Condominium Abatement
- March 15
 - Senior Citizen Homeowner Exemption
 - Disabled Homeowner Exemption
 - Veterans
 - Clergy
 - Disabled Crime Victim/Good Samaritan
 - STAR Exemption
- Taxable status date is March 15th for STAR and DHE exemptions

Tax Map

- To aid in the task of assessment, the Department of Finance is responsible for drafting, updating and maintaining tax maps.
 - Individually assessed parcels are indicated by description and by the use of ward, block, and lot numbers.
 - Individual lots may be changed or added as necessary both in new blocks and in existing blocks, through the merger and apportionment process.
 - A list of all blocks altered, and a list of new blocks formed shall be filed annually with the Register and applicable County Clerk.
(Admin Code §11-203)
- A parcel is defined as a separately assessed lot, parcel, piece or portion of real property, except publicly owned bridges and land used for street, road, highway or parkway purposes.
RPTL 102(11).

Mergers and Apportionments

- Apportionments - division of one separately assessed parcel into two or more parcels;
 - Apportionment for new buildings, alterations on existing buildings, and vacant land require an approved subdivision plan work application (PW1) and a survey prepared by a licensed New York State land surveyor.
 - For condominiums, the applicant must comply with requirements set forth in State RP Law Article 9B.
- For Mergers - combination of two or more parcels into a single parcel;
 - The deed on record must show common ownership of parcels of real property, with a current metes and bounds description prepared by a surveyor if there isn't one in the deed.
 - Exempt parcels may not be merged with non-exempt parcels.
- The Department may require additional information as it deems necessary, and notify applicants writing if such is required.
- Application fees are waived for work approved and funded under the post-Sandy 'Build It Back' Program.

Mergers and Apportionments (cont'd)

- When an owner of real property wishes to modify their tax lot, they must file an application with the Department of Finance
 - The deed of record for all parcels in the application must show that they are owned by the applicant.
 - A lessee with a lease-term of 99 years or more may submit an application, where the application is cosigned by the owner.
 - All outstanding taxes for current and prior years, charges and tax liens on the parcels must be paid off, unless an installment agreement has been entered and the owner is current on payment.
 - Parcels may not have any outstanding Environmental Control Board judgment debt, unless such debt was incurred by a previous owner, or unless such debt is subject to Article 78 actions or motions before the NY Office of Administrative Trials and Hearings (OATH).

Inventory

- Assessors shall maintain an inventory of all real property located within the city or town, including names of owners. RPTL § 500.
- The physical characteristics included will be a public record available for inspection and copying

Inspections

- Assessors may enter on unenclosed real property from which the public is not excluded and take photographs of the land and the exterior of buildings thereon, for the purpose of assessment. See Charter § 1521
- Except as to buildings generally open to the public, however, the assessor may not enter a building for such purpose without permission.
- Entry without permission of the owner has been deemed to be an unconstitutional search.

RPIE Statements - Overview

- Where real property is income-producing, the owner is required to annually submit a statement of (1) all income derived and (2) expenses attributable to the operation of said property, in order to more accurately assess such properties. Admin Code §11-208.1
 - The owner must file such a statement no later than June 1st, or, if the 1st falls on a weekend or legal holiday, on the next business day.
 - If the owner's books and records are maintained on a calendar year basis, statement is for the year preceding.
 - If records are maintained on a fiscal year basis, statement shall be for the last year concluded as of May 1st.
 - Filed statements must indicate whether the owner maintains their books and records using the cash or accrual method of accounting.
 - A separate statement must be filed for each parcel of income-producing property, though a consolidated statement may be filed for multiple tax lots that are (1) operated together as an economic unit or otherwise related for valuation, (2) are under common ownership, (3) are contiguous or within the same or adjacent tax block, and (4) are located in the borough.
 - Where the owner of the property has not owned the property for an entire year and is without knowledge of the income and expenses, they are not required to file a statement for such year. However, the owner may be required to file a claim of exclusion under 19 RCNY § 33-02(3)(e).
 - Owners of property with a tentative actual assessed value over \$750,000 may be required to file an addendum containing rent roll information.

RPIE Statements - Mandatory Filers

An “income-producing property” is one owned for the purpose of securing an income and may include

- (1) Apartment houses;
- (2) Commercial/professional condominiums;
- (3) Department stores (including owner-occupied department stores occupying 10,000 square feet or more);
- (4) Factories and industrial buildings;
- (5) Garages and parking lots;
- (6) Hospitals;
- (7) Hotels and motels, regardless of whether they are owner-occupied;
- (8) Lofts;
- (9) Mixed-use buildings of all types (for instance commercial and residential space, office and garage, hotel and restaurant);
- (10) Nursing homes and health-related facilities
- (11) Office buildings;
- (12) Partially tax-exempt properties;
- (13) Places of public assembly;
- (14) Privately –owned educational structures;
- (15) Rented commercial and professional space in residential condominium buildings or cooperative buildings with more than 2,500 square feet of commercial space, not including any garage;
- (16) Restaurants;
- (17) Retail stores;
- (18) Theaters (movie or stage), regardless of whether they are owner-occupied;
- (19) Transportation facilities;
- (20) Vacant land, when income is derived from the land (for instance, unimproved land used as a parking lot)
- (21) Warehouses, and self-storage warehouses, regardless of whether they are owner-occupied;
- (22) Gasoline stations, regardless of whether they are owner-occupied;
- (23) Car washes, regardless of whether they are owner-occupied;
- (24) Power plants, generators, telecommunication lines and other equipment defined as real property under paragraphs (d), (e), (f) and (i) of RPT § 102(12), regardless of whether it is owner-occupied other than special franchise property that is assessed pursuant to RPT article 6 .

RPIE Statements - Non-Mandatory Filers

RPIE statements are not required for (though may be filed by):

- (1) Property with a tentative actual assessed value of \$40,000 or less on the tentative assessment roll promulgated in the year for which the statement would otherwise be required (including where the actual assessed valuation for such tax year is subsequently reduced to \$40,000 or less);
- (2) Residential property containing 10 or fewer units;
- (3) Property in tax class 1 or 2 as defined in RPT § 1802 containing six or fewer dwelling units and one retail store;
- (4) Residential or commercial properties that are completely owner-occupied (other than where previously described);
- (5) Property fully exempt from real property taxation;
- (6) Exclusively residential property held in condo ownership, or coop property with no more than 2,500 square feet of commercial space;
- (7) Special franchise property assessed pursuant to Art. 6 of the Real Property Tax Law,
- (8) Property not generating income (abandoned or uninhabited).

19 RCNY § 33-01(b)(2)

Owners contending they are excluded from filing requirements and do not fit within categories 1-3, or 7 above must still file a claim of exclusion by the RPIE statement filing deadline, June 1st (or next business day if on a weekend/legal holiday). 19 RCNY § 33-01(b)(3)(i).

RPIE Statements - Owner-Occupied Property

Property is deemed to be owner-occupied where it is leased to

- (A) individuals that are the spouse, parents, children or siblings of the property owner;
- (B) individuals that are the mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law of the property owner;
- (C) businesses that are in common control with the property owner; and
- (D) beneficiaries of a property owner that is a fiduciary for such beneficiaries

RPIE Statements - Income

Income includes but is not limited to:

- (1) rental income from tenants – actual rent paid or accrued for space occupied by tenants;
- (2) rental value of owner-occupied space – the total rental value attributable to space occupied by the owner;
- (3) operating escalation income actual amounts paid or accrued pursuant to lease escalation clauses in addition to a tenant's base rent resulting from increases in operating expenses;
- (4) water, sewer and real estate tax escalation income – actual amounts paid or accrued pursuant to lease escalation clauses in addition to a tenant's base rent resulting from increases in water and sewer charges and real estate taxes;
- (5) sales of utilities and services – actually gross income from the sale of utilities and services such as electricity, air conditioning and cooking fuel;
- (6) common area charges – amounts paid by or accrued from tenants for the maintenance and repair of interior and exterior common areas;
- (7) services (e.g., laundry, valet, vending machines) – actual gross income from such services;
- (8) senior citizen rent increase exemption (SCRIE) tax abatement – the sum of all real estate taxes abated by the City of New York plus any amounts above the current tax liability which are refunded or credited as a result of the exemption of individual senior citizens from rental increases pursuant to § 467-b of the Real Property Tax Law;
- (9) rent subsidies paid by or accrued from a governmental body;
- (10) the value of improvements provided by the tenant in lieu of rent; and
- (11) other income – any other income derived from the property, excluding interest on bank accounts and tenants' deposits.

RPIE Statements - Expenses

Expense items include but are not be limited to:

- (1) fuel – amounts paid or accrued for any fuel for heating or supplying hot water for the premises (including the cost of any cooking fuel provided to any of the tenants);
- (2) light and power – amounts paid or accrued for these utilities;
- (3) cleaning – amounts paid or accrued for cleaning contracts;
- (4) wages – salaries and commissions paid or accrued for services relating to the operation and maintenance of the property (excluding salaries or commissions paid to directors, officers or management);
- (5) repairs and maintenance – amounts paid or accrued for the general maintenance and repair of the property, excluding the amount attributable to capital improvements. Reserve accounts for appropriate replacement costs (e.g., roofing, boilers), when prorated on a yearly basis over an acceptable period, will be treated as an acceptable expense, whether or not actually expended;
- (6) common area maintenance – amounts paid or accrued for the maintenance of interior and exterior common areas;
- (7) management and administration – expenses for management, legal and accounting services attributable to the property;
- (8) insurance – annual charges for all insurance premiums relating to the property (multi-year policy premiums are to be prorated on a yearly basis);
- (9) water and sewer – actual expenses incurred for water and sewer usage;
- (10) advertising and promotion – fees paid or accrued for advertising rental space in the property;
- (11) decorating – the cost of all contracted labor and decorating materials;
- (12) leasing expenses – prorated yearly costs of broker commissions and consultant fees which relate to renting space in the property;
- (13) real estate taxes – total annual real property taxes paid or accrued or in the case of a senior citizen rent increase exemption, the total tax levied; and
- (14) miscellaneous expenses – other expenses not mentioned above relating to the operation and maintenance of the property, excluding depreciation expenses, mortgage payments or interest expenses of any type.

RPIE Statements - Not-For-Profits and Government Entities

- An income and expense statement must be filed for the commercial portion of a property owned by a not-for-profit organization or government entity if the property is leased to a commercial tenant.
 - In such cases, the commercial tenant may file the income and expense statement.
- No income and expense statement is required if the rent paid by the tenant does not exceed the carrying, maintenance and depreciation charges of the property occupied and either (1) the use of the property by the commercial tenant is an exempt use under the provisions of the Real Property Tax Law or (2) the property would be exempt were it owned by such tenant.

19 RCNY § 33-01(b)(3)

RPIE Statements - Other Filing Requirements

- An owner of an income-producing property is not required to file a statement where the net lessee files a statement containing complete information relating to the operation of the property, however, failure to file by either results in penalties for the owner.
- A statement must be filed where a building was vacant for all or part of the calendar or fiscal year preceding the deadline for filing such statement, unless the property is vacant due to an impending demolition and has no existing leases as of the filing deadline.
- The owner of a building situated on leased land and the owner of the ground lease must both file separate statements, unless the building owner provides the leasehold rent for the building in their statement.
- Unless a subsidiary is wholly owned by a parent corporation, they are considered a distinct entity for determining owner-occupied status and leasing income requirements.

19 RCNY § 33-02(d)

RPIE Statements - Other Filing Requirements (cont'd)

- For owners of residential condominium with commercial and/or professional space, and owners of residential cooperative buildings with more than 2,500 square feet of commercial and/or professional space, a statement is required with information only for that commercial and/or professional portion of the property.
- For power plants, generators, telecommunications lines and other equipment defined as real property under paragraphs (d), (e), (f) and (i) of RPT § 102(12), the owner must additionally file a statement by September 1st including a description of the use and cost of (i) all such property owned by such owner in the City of New York as of the end of the reporting year, (ii) any such property that was retired during the reporting year, and (iii) any such property that was added to inventory during the reporting year, including any such property the construction of which remained in progress as of the end of the reporting year.
- For cooperatives and condominiums where at least 10% of the units remain unsold and owned by the sponsor (including those where multiple buildings are governed by the same board of managers or directors), the property owner must file a statement including rent roll information in a format as determined by the Commissioner of Finance.

RPIE Statements - Non-Compliance

Failure of property owners to file an RPIE by the filing deadline is subject to both monetary and non-monetary penalties.

Where an RPIE has been submitted, a property owner may still be considered as having “failed to file” if the owner has:

1. failed to file in the electronic format prepared by the Department of Finance, where electronic filing requirements are waived, failed to use the forms prepared by the Department of Finance;
Where non-electronic forms are submitted, they must contain either the owner’s original signature or the signature of an agent with an attached power of attorney.
2. failed to submit a separate income and expense statement for each parcel (consolidated statements may be submitted only for contiguous condominium lots operated as a single entity);
3. failed to complete forms in a legible manner;
4. failed to submit an addendum, when required;
5. failed to file a substantially complete and accurate income and expense statement, for example by (1) not providing data for the appropriate accounting period, or (2) not providing a complete and accurate and itemized list of income and expense data;

RPIE Statements - Non-Compliance (cont'd)

- Failure to file shall result in monetary penalties, resulting in a tax lien against the real property in question.
- Additionally, the Department of Finance shall provide a list to the Tax Commission of properties whose owners have failed to file, and such failure shall be grounds for automatic denial of a Tax Commission application contesting assessment.
- The Commissioner of Finance may compel records be produced via subpoena.

19 RCNY § 33-03

- Owners of property who fail to timely file a statement or claim of exclusion will be notified and given 30 days to cure their error, or request a hearing, prior to the imposition of penalties. 19 RCNY § 33-04(a)

Form of Assessment Roll

- Each parcel will have
 - Name of the owner, last known owner or reputed owner and description to identify
 - Approximate square feet/dimensions
 - Identifying information of parcel on tax map (i.e., BBL)
- The roll will set forth uniform percentage of value applicable to the tax class
- AV of land exclusive of improvements, total AV, and full value of parcel
 - Only total assessment is subject to judicial review by Article 7
- Special Franchises will be on a separate part of the roll with name of owner and description
- Wholly exempt property is in a separate part of the roll
- Partially exempt property will be with the taxable property, with amount of exemption shown in its own column
- Property exempt from tax in limited amount will be entered with taxable property, and exemption equals AV
- Entry for amount of taxes levied with date of payment
- Separate taxes under certain provisions of the General Municipal Law
- Entry for Tax Billing Address

RPTL § 502

Assessment Roll

- The tentative roll must be verified under oath, as well as any list of corrections. RPTL § 504(5)
- Assessment Roll must contain a column for entry of the class designation. RPTL § 1802(2)
 - Class designation is subject to administrative and judicial review
- When assessor receives a report of a real property transfer after the taxable status date, or is otherwise notified of a change in tax billing address, the assessor will enter the new tax billing address on the roll. RPTL § 1518

Notice of Property Value

- Property owners whose assessments are increased are required to be notified by first class mail at least thirty days prior to the date for filing an appeal (which is March 1st for classes 2, 3 & 4; March 15th for class 1). Charter § 1511
- NYC, as a Special Assessing Unit, can comply with noticing provisions by providing an assessment disclosure notice to property owners which includes
 - Tentative assessments
 - Market values upon which they were based
 - Applicable level of assessment. RPTL § 511

Notice Regarding Change in Taxable Status

- NYC will mail to each real property owner a notice of change regarding taxable status no later than 30 days prior to the final date for filing an appeal concerning
 - Wholly exempt to taxable in whole or in part
 - Taxable in part to taxable in whole
- Notice must include information on how complaints can be heard
- Failure to mail the notice does not prevent levy, collection or enforcement of taxes. RPTL § 510-a

Reporting Requirement to Mayor and City Council

- No later than February 15th, the Commissioner of Finance must deliver an annual estimate of the assessed valuation of real property for the coming fiscal year to the Mayor and City Council.
- The report includes the following;
 - (1) distribution of factors used to determine market values, including income, expenses, and rates of capitalization,
 - (2) formulas, data sources and values used to determine rates of capitalization,
 - (3) average values and changes of incomes and expenses, reflected in RPIE statements under Admin Code §11-208.1,
 - (4) statistical summaries of changes in total market value and assessed value for each tax class and category from assessment roll for the previous year,
 - (5) statistical summaries of equalization and non-equalization changes from the assessment roll for the previous year,
 - (6) methods of valuation used for each property subject to taxation for the ensuing fiscal year, and the information used to determine such valuation.

Requests for Review

- A property owner may apply to the Department of Finance for a review of the property's market and assessed value on the tentative assessment roll. RCNY § § 37-01 through 37-09
- The time period provided in the Rules for filing an RFR application varies with tax class:
 - For owners of class one real property, the application must be submitted between January 15 – February 28
 - For owners of class two real property, the application must be submitted between January 15 – February 13
 - For owners of class three and four real property, the application must be submitted between January 15 – April 1
- Request for review will be denied where RPIE statement was required for the property and was not timely filed in the prior year

Change By Notice

- During the period that the annual record of assessed valuation remains open, the Commissioner of Finance may add to the tentative assessment roll any omitted property, and may increase or decrease a parcel's assessed value as deemed just or necessary for the equalization of taxes. Charter § 1512
- For non-residential property, this period extends until May 10th
- If property is added or an assessed value is increased, the Commissioner is required to mail ten days prior written notice to the owner of the property
 - If such notice is mailed after February 1st the time to appeal to the Tax Commission is extended for twenty days from the date of the mailing

Property Tax Rates

- City Council fixes real property tax rates for four property tax classes upon approval of the budget. Charter § 1516
- Annual tax rates for four classes are based on the class shares and the assessed values in the final assessment roll
- If budget is not adopted by June 5th, current tax rates are deemed to have been extended and will be used for July property tax bills. Charter § 1516
 - Upon later adoption of the budget the tax rates are revised and taxes due are adjusted on subsequent January tax bills

Property Tax Payments

Real property taxes are paid in quarterly or semi-annual installments. Charter §1519-a

- Quarterly for properties with assessed values under 250,000; due July 1st, October 1st, January 1st, and April 1st.
 - Interest is imposed on amounts unpaid by the 15th of the respective month. Admin Code §11-224.1(a)
- Semi-annual for properties with assessed values over 250,000; due July 1st and January 1st.
 - Interest is imposed on amounts unpaid by the date due. Admin Code §11-224.1(b)
- There is a discount for early payment, set by the City Council.
- Banking Commission issues written recommendations concerning discount rates for the early payment of property taxes and interest rates for late payment. Charter §1519(3); Admin Code § 11-224.1(e)
 - Consists of the Comptroller, the Mayor, and the Commissioner of Finance
- Unpaid taxes become liens on due date, and remain liens until paid. Charter §1519-a(6)

Statutory Limitations on Value - Assessment of Cooperatives and Condominiums

- Real property owned or leased by a cooperative corporation or on a condominium basis shall be assessed at a sum not exceeding the assessment which would be placed upon the parcel if it was not owned or leased by a cooperative corporation or on a condominium basis. RPTL § 581(1)(a)
- Real property occupied for residential purposes on a rental basis will be assessed without regard to the value the property might have if converted to a cooperative or condominium basis or if sold or owned for the purpose of such a conversion. RPTL § 581 (3)
- In no event will the aggregate assessment of all condominium units plus their common interests be greater than the total valuation of the property if the property itself were assessed as a parcel. Real Property Law § 339-y(1)(b)

Assessment Pursuant to the Condominium Act

- For property subject to the Condominium Act, each unit and its common interest will be considered a parcel and subject to separate assessment and tax. Real Property Law § 339-y
- Neither the building, property nor any common elements will be considered a parcel
- On the first assessment roll with a taxable status date on or after the effective date of a condo declaration and on every roll after, the assessor will enter each unit as a parcel based on condition and ownership of each unit
 - Units owned by a developer may be entered as a single parcel, where the parcel description corresponds to the entire development, including the land under the development but excluding the units appearing separately
 - On the first roll where each unit is separately assessed, only an individual unit and its common interest will constitute a parcel
- The Board of Managers may act as an agent of each unit owner who has given written authorization to seek administrative and judicial review of an assessment under Article 7 of the RPTL
 - They can retain legal counsel for the unit owners and charge a pro rata share of the fee

Condominium Act - Definitions

- Property is the land, the building and all other improvements thereon
 - (i) owned in fee simple absolute, or
 - (ii) in the case of a condominium devoted exclusively to non-residential purposes, held under a lease or sublease, or separate unit leases or subleases, the unexpired term or terms of which on the date of recording of the declaration shall not be less than thirty years, or
 - (iii) in the case of a qualified leasehold condominium, held under a lease or sublease, or separate unit leases or subleases, the unexpired term or terms of which on the date of recording of the declaration shall not be less than fifty years, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this article
- "Unit"
 - Part of the property intended for any type of use or uses, and with an exit to a public street or highway or to a common element or elements leading to a public street or highway, and may include such appurtenances as garage and other parking space, storage room, balcony, terrace and patio, but in no event may utility facilities such as those for water or sewerage treatment or power generation appear as single units
- "Common elements," unless otherwise provided in the declaration, means and includes:
 - (a) The land on which the building is located
 - (b) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building
 - (c) The basements, cellars, yards, gardens, recreational or community facilities, parking areas and storage spaces
 - (d) The premises for the lodging or use of janitors and other persons employed for the operation of the property
 - (e) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating
 - (f) The elevators, escalators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use
 - (g) Such facilities as may be designated as common elements in the declaration; and
 - (h) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use
- "Common interest" means the (i) proportionate, undivided interest in fee simple absolute, or (ii) proportionate undivided leasehold interest in the common elements appertaining to each unit, as expressed in the declaration.

Qualified Leasehold Condominiums

- Any leasehold interest in real property intended to be used for either residential purposes, commercial purposes, industrial purposes or any combination, together with any fee simple absolute or leasehold interest in the buildings and all other improvements which have been or may be erected, which has been or is intended to be submitted to the Condo Act, provided that, on the date of the recording of the declaration:
 - (i) Battery park city authority or the Roosevelt Island operating corporation is the holder of the tenant's interest in such leasehold interest or
 - (ii) Queens West development corporation is the holder of the landlord's interest in such leasehold interest or
 - (iii) Brooklyn bridge park development corporation is the holder of the landlord's interest in such leasehold interest, or
 - (iv) New York city educational construction fund is the holder of the landlord's interest in such leasehold interest for property located in the borough of Manhattan, in the city of New York, bounded on the east by Second Ave, on the west by Third Avenue, to the north by East Fifty-seventh Street, and to the south by East Fifty-sixth Street.
- RPL § 339-e(12)

Assessment of Affordable Housing

- The assessed value of real property used for residential rental purposes where at least 20% of the residential units are subject to an agreement with the government or an instrumentality thereof, which places an income test for residing in those units, shall be determined using the income approach as applied to the actual net operating income, after deducting for reserves required by any federal, state or municipal programs. RPTL § 581-a
 - Net operating income means the actual or anticipated net income that remains after all operating expenses are deducted from effective gross income, but before mortgage debt service and book depreciation are deducted
 - The assessed value of real property used for such residential rental purposes shall be determined using the actual net operating income, and shall not include federal, state or municipal income tax credits, subsidized mortgage financing, or project grants, where such subsidies are used to offset the project development cost in order to provide for lower initial rents

Superstorm Sandy Properties

- For the period 2013-2020, physical increases to assessed value derived from repair or reconstruction of property damaged by Superstorm Sandy shall not exceed the decreases in assessed value caused by storm damage
- Increases in assessed value in excess of this amount are subject to assessment caps and transitional phase-ins
 - Exception where reconstruction results in enlargement of the property.
- The new assessed value will be the base for future values going forward
- Intent is that the amount of any increase in assessed value will be limited to the amount that would have occurred if Sandy had not occurred

RPTL § 1805-a; Admin Code §11-240.1

Special Franchise Property

- State shall annually determine market value of all special franchise property in each assessing unit. RPTL § 600(1)
- State will determine a tentative value and give notice in writing to special franchise owner and assessing unit about the value and meeting time to hear any complaints about the value
- State may establish a separate tentative and final special franchise value for property that was omitted in a previous year or deduct property that was incorrectly included
- Owner or assessing unit must serve written complaint on State at least ten days prior to hearing
- State board of real property tax services shall determine the final value. RPTL § 614
- The final assessment will be determined by the assessor by multiplying full value certified by ORPTS by the uniform percentage for Class 3 property. RPTL § 616(3)

Progress Assessments During Construction

- Certain buildings under construction may be exempt from assessment.
- A building under construction as of January 5th, begun less than a year ago is exempt from assessment, unless it is ready for occupancy/partially occupied by April 15th.
- The exemption may be extended to 3 years where the building under construction is a “commercial building.”
 - A “commercial building” is defined as one that is used for manufacturing, business, or commercial activities, excluding hotels.
 - It may include a residential component under certain circumstances.
 - If there is a residential component, that component must either be (1) eligible for a partial exemption on real property tax under RPT 421-a and either receiving or in the process of applying for such exemption; or (2) eligible in its entirety for a full exemption from real property tax on building and land, and be either receiving or in the process of applying for such exemption.
 - For a condominium lot to be eligible for progress assessment for three years, the building as a whole must be a commercial building.

Administrative Review of Assessments - Tax Commission

- An assessment may be contested by filing an application for correction with the Tax Commission, to be filed while the books of record are open for public inspection.
 - For class one property, the deadline is extended through March 15th. Charter §164-b(b); 19 RCNY § 49-02
- Taxpayers may contest their assessments on four grounds:
 - (1) Assessment is illegal
 - (2) Over-valuation
 - (3) Assessment is at a higher proportion of value compared to other property in the class
 - (4) Misclassification

Charter §163; Admin Code §11-225

Administrative Review of Assessments - Tax Commission (cont'd)

- Independent agency - consists of 6 Commissioners and a President. Charter §153
- Responsible for reviewing contested real property assessments, through commissioners or assessors and other employees authorized to take testimony.
 - May act upon applications, conduct hearings, take testimony, and examine applicants or witnesses under oath between Jan 15th and May 25th. Charter §164
 - Where assessed property value is over \$750,000, may act between February 1st and September 1st. Charter §164-a
- A final determination is to be delivered within 30 days of hearing or filing of testimony. Admin Code §11-230
- Has the authority to reduce assessed value, strike assessments where unlawful, and correct classification where appropriate. Charter § 164; Admin Code §11-225

Tax Commission - Application

- A separate application shall be filed for each separately assessed property that is not a condominium unit.
 - A condominium board of managers may file a single application for all unit owners who have authorized the board to act for them.

21 RCNY §3-03

- An application filed before the Tax Commission must be filed
 - (1) in the appropriate jurisdiction
 - (2) by an individual with standing
 - (3) at the appropriate time and location
 - (4) concerning a genuine dispute
 - (5) stating one or more of the four statutory claims of error
 - (6) identifying the property whose assessment is protested either by borough/block/lot or street address
 - (7) be signed by an authorized person with personal knowledge via original signature
 - (8) with contents verified or certified upon personal knowledge
 - (9) stating the name of the applicant.

21 RCNY §3-02

Tax Commission - Determination

- A claim or claims in an application may be determined with one or more of the following four outcomes:
 - dismissal of the claim or claims for a jurisdictional defect;
 - confirmation of the assessment based on denial of review for a substantive or procedural defect;
 - confirmation of the assessment following review; or
 - an offer or a determination to correct the assessment.
- The Tax Commission may not increase an assessed valuation, but may notify appropriate governmental agencies of errors in assessment or in official records.
- If an application has not been determined by May 25, the assessment objected to shall be deemed to be the final determination for purposes of judicial review.

Tax Commission - Determination

- In a proceeding before the Tax Commission, value of a property may be demonstrated through (1) sale of the subject property, (2) the sales approach, (3) the income approach, or (4) the cost approach. 21 RCNY §4-11
 - The hearing officer may consider any reasonable approach or combination of approaches, may require evidence be produced, take testimony under oath, and visit and inspect the property. 21 RCNY §4-11(e-f)
 - At or after a hearing, additional information may be required including statements, documents, records, or photographs. 21 RCNY §4-11(g)
- Where a party wishes to contest a final determination of the Tax Commission, they may proceed by bringing suit at a special term of the supreme court in the judicial district where the real property so assessed is situated.
 - The deadline to bring such a proceeding is October 25th. Charter §166)

Judicial Review

- Depending on the type of property, there are different avenues for judicial appeal
 - Article 7 proceeding
 - Small Claims Assessment Review (SCAR) for one, two or three family owner-occupied structures used exclusively for residential purposes
 - Special procedure for special franchise property

Article 7 Proceedings

- Commenced in New York Supreme Court. RPTL § 702
 - Grounds for review - assessment is excessive, unequal, unlawful, or misclassified – same as grounds for review at the Tax Commission. RPTL § 706
 - Excessive assessment
 - Assessed value that exceeds full value of real property or
 - Taxable assessed value that is excessive because property didn't receive all or part of an exemption they are entitled to or
 - Excessive transitional assessment because of failure to comply with the statutory limitations
 - Misclassification
 - Incorrect class designation
 - Incorrect allocation of parcel's assessed value between two or more classes
 - Unequal assessment
 - Assessed value of real property is at a higher proportionate valuation than the assessed value of other real property in the same class on the same roll by the same officer
 - Unlawful assessment
 - Assessed value of real property which is wholly exempt from taxation or
 - An entry of assessed value that cannot be identified from the roll description or tax map land parcel number or
 - Entry made by a person or body without authority to do so or
 - Entry of a assessed value of a special franchise on an assessment roll that exceeds the final value as determined by the State
- RPTL § 701

Article 7 - Determination

- If the finding is an unlawful assessment, court will order the assessment stricken from the roll and, if appropriate, entered on the exempt portion
- If the finding is the property was misclassified, court will order correction of class designation
- If excessive or unequal assessment, the court will order a revised assessment or correction of assessment
 - However, an assessment may not be ordered reduced to less than that requested by petitioner. RPTL § 706
 - If real property is partially exempt and order doesn't specify how much of assessed value is exempt, it shall be reduced to preserve ratio of taxable assessed value to total assessed value that was on the final roll

Article 7 - Determination (cont'd)

- If a final order found the assessment was excessive, unequal or unlawful or property was misclassified and the order is not made in time to make a new or corrected assessment, or strike the assessment, then it will be refunded:
 - In the same way as taxes were paid for the amount paid in excess plus interest
- Application for repayment must be made within three years of the entry of the order
- Interest will be paid from the date the tax was paid, but any interest after any final order will be paid only from the date an application for refund or audit has been made
 - Interest rate is the overpayment rate set by the State and will not be greater than 9% per year

Small Claims Assessment Review (SCAR)

- Small claims proceeding for challenging real property taxes for
 - One, two, or three family owner-occupied structures used exclusively for residential purposes. RPTL § § 729-739
- Petition must be filed before October 25 and pay a fee of \$30
 - Petition is a form available from the court and can only relate to one parcel
- Can be made by owner or authorized agent
- Hearing officers are appointed for these cases and must have training, interest, experience in the relevant laws and assessment procedure but are not necessarily attorneys (RPTL § 731)

SCAR - Hearing

- Held as soon as feasible, ideally within 45 days, in the county where the real property is located
- Notice of the hearing is to be mailed at least 10 working days prior to the hearing
- No expert witnesses needed
- No requirement to be represented by an attorney
- Hearing officer runs the hearing and considers the best evidence

SCAR - Decision

- Made by the hearing officer in writing within 30 days from hearing date and include findings of facts and evidence used. RPTL § 733
 - Can grant the petition in full or in part, or deny
 - Cannot reduce below the amount requested
- If reduction is greater than or equal to 50%, the hearing officer will award petitioner the \$30 filing fee
- If reduction is less than 50%, hearing officer may award up to the \$30 fee
- If the petitioner didn't qualify for SCAR, the petition is denied without prejudice and can commence an Article 7 proceeding within 30 days or amend the petition to meet SCAR requirement
- Hearing officer will mail a copy of the decision. RPTL § 734
- Petitioner can seek an Article 78 proceeding to review the SCAR decision

Special Franchise - Judicial Review

- Assessing unit may commence a proceeding when they feel the value of the property is insufficient prior to the application of the equalization rate
- Proceeding will be consolidated with any other proceeding commenced by the owner of a special franchise
- Petition shall be served no more than 60 days after the written notice of final value is served
- Assessing unit or special franchise owner will be permitted to intervene in proceeding started by the other
- The proceeding will be against the Commissioner of the NYS Department of Taxation and Finance unless otherwise directed by a court or judge
- Decision will be binding on owner of special franchise and local assessors as though they had been parties to the proceeding

Administrative Review of Assessments by DOF

- The Commissioner of Finance may also correct any assessment or tax which is erroneous due to a (1) clerical error or to an (2) error of description contained in the assessment rolls. Admin Code §11-206
 - A property owner can file an application for administrative review for clerical errors or errors of description. 19 RCNY §53-01
 - Eligible errors can be corrected if they occurred within six years of the date of submission of an application. 19 RCNY §53-01
 - If the taxes computed on such erroneous assessment have been paid, the commissioner of finance is authorized to refund or credit the difference between the taxes computed on the erroneous and corrected assessments. 19 RCNY §53-01

Correction of Clerical Errors

- The Commissioner of Finance may correct any assessment or tax that is erroneous due to clerical error (defined in RPTL §550(2)).
- Clerical error will include but not be limited to the following
 - Failure to process partial exemption.
Example: Eligible senior citizen submits a completed application for the senior citizen homeowner exemption for the 2014/15 year and provides a certified mail receipt that it was submitted timely. The application is not approved or denied but is lost and the homeowner does not receive the exemption for 2014/15.
 - Computer programming or inputting error resulting in value different than intended by assessor.
Example: Assessor values an office building at \$1,000,000 but the assessment roll mistakenly reflects a value of \$10,000,000 due to a computer programming or inputting error.

19 RCNY §53-02(a)

Correction of Errors in Description

The Commissioner of Finance may correct any assessment or tax due to an error in description which will include but not be limited to the following:

- Incorrect tax classification on the assessment roll due to an inventory error concerning the records maintained by the Department of the physical characteristics of the property.

Example: Department records indicated that there were twelve units on the property when there were in fact ten units. The tax class will be changed from class 2 to subclass 2B (capped).

- Physical change not put on the assessment roll or put on as an equalization change.

Example: New construction was performed on the property but the assessment roll does not reflect a physical increase subsequent to the completion of the work).

- Physical change put on the assessment roll when no physical work was done.

Example: No construction work or alterations were performed on the property but the assessment roll reflects a physical increase in assessed value.

- Equalization change erroneously put on an assessment roll as a physical change.

Example: The value of the property increased due to increases in rental income, but no physical work was done on the property in the previous year. The assessment erroneously reflected a physical increase in assessed value instead of an equalization increase in assessed value.

Correction of Errors in Description (cont'd)

- In progress assessment erroneously not removed from the assessment roll.

Example: Construction has commenced on a commercial building for a year but it is not ready for occupancy by April 15th. Therefore the assessment on the improvement should be removed from the assessment roll. The failure to remove the assessment based on the partial completion will be corrected.

- Incorrect entry on the assessment roll of the assessed value of an improvement which was destroyed or removed prior to the taxable status date.

Example: House on the property was demolished prior to January 5th, but the assessment roll indicates a building assessed value for the property.

- Incorrect entry on the assessment roll of the assessed value of an improvement which was not in existence or which was present on a different parcel.

Example: House assessed for the property at 100 Main Street (vacant land) when the house existed on the property at 110 Main Street.

- Assessment based on incorrect square footage.

Example: Owner-occupied warehouse is valued based on 10,000 square feet when it has 5,000 square feet and the assessed value would have been lower if the correct square footage had been used.

- Assessment based upon incorrect number of units.

Example: Retail property is valued using four rental units when it has two rental units, and the assessed value would have been lower if the correct number of units had been used.

Correction of Errors in Description (cont'd)

- Inaccurate building class that affected assessed value.

Example: Warehouse property (building class E1) erroneously had a K1 retail building class that resulted in higher income being applied and an assessed value that was too high.

- Erroneous calculation of transitional assessment or statutory limitation on assessment increases.

Example: Class one property has an equalization increase in assessed value of 10% from the previous year, which exceeds the statutory cap of 6% per year.

- Incorrect apportionment of parcel on the tax map.

Example: Parcel was requested to be apportioned 50% to the old owner and 50% to the new owner. The tax map erroneously apportioned 70% of the parcel to the old owner and its assessed value would have been lower if the apportionment had been done correctly.

- Land incorrectly deemed developable.

Example: Property is protected wetlands and cannot be developed, but is valued as if it were vacant land subject to development.

- Correction of defective changes by notice.

Example: The assessed value of a commercial property is increased prior to May 10th, the end of the change by notice period, but the 10-day notice required pursuant to statute is not mailed. The increase is therefore defective and the assessed value should be restored to the prior amount.

Correction of Errors in Description (cont'd)

Errors that cannot be corrected as errors in description:

- Overvaluation due to inappropriate comparables or attributed income:

Example: Condominium was valued using comparable income from rentals in a different neighborhood rather than rentals from the same neighborhood.

- Incorrect valuation model utilized.

Example: Retail property was valued using an 8% capitalization rate, but it was determined in subsequent models that a 9% capitalization rate was more appropriate for this type of property in this location.

- Error in land/building ratio.

Example: The land assessed value for a class one single-family house is 40% of the total assessed value, but it is subsequently determined that the land proportion of the total assessed value should be 50%.

- Incorrect calculation of exemption based on error in application of the statute (inclusion of additional year in exemption calculation previously held by court not to be a clerical error).

Example: a J-51 exemption was incorrectly calculated to include equalization increase for four years instead of three years as per the statute.

Enforcement - Tax Lien Sale

- Charter authorizes interest and penalties on unpaid taxes. Charter §1520
- Real property taxes become liens on property until paid. Charter § 1519(2); Admin Code §11-301
 - Tax lien defined as an unpaid tax, special assessment or other charge imposed on real property that is an encumbrance on real property. RPTL § 102(21)
- Any unpaid charges that remain due as of June 1st are to be added to the assessment roll for that year, together with all penalties and interest, in a separate column under “arrears.” Admin Code §11-303
- Chapter 3 of Title 11 of the Administrative Code prescribes detailed procedures regarding tax liens and tax sales for unpaid taxes
- The City is authorized to sell certain tax liens to a private entity to satisfy arrears after a certain period of time has passed (see chart on next slide)
- Upon sale, city issues a tax lien certificate, an instrument evidencing the tax lien and executed by the commissioner of finance or a designee at the time of sale/transfer. Admin Code §11-324, §11-327, §11-328
- The tax lien sale is a transfer of the liens on the property, not a sale of the property itself
 - If the outstanding taxes and/or charges are not paid or resolved, the lienholder may begin foreclosure proceedings in court

Tax Lien Sale - Qualifying Charges

Type of Property	Property Tax Debt		Water/Sewer Debt		AEP Debt *		ERP Debt *		May Be Excluded (Note 2)
	Minimum Amount	Years Overdue	Minimum Amount	Years Overdue	Minimum Amount	Years Overdue	Minimum Amount	Years Overdue	
1 Family - Owner Occupied	\$1,000	3	(Note 1)		N/A	N/A	N/A	N/A	YES
1 Family - Non-Owner Occupied	\$1,000	3	(Note 1)		N/A	N/A	\$1,000	1	NO
2-3 Family - Owner Occupied	\$1,000	3	\$2,000	1	N/A	N/A	N/A	N/A	YES
1-3 Family - Non-Owner Occupied	\$1,000	3	\$2,000	1	\$1,000	1	\$1,000	1	NO
Residential Condominium	\$1,000	3	\$1,000	1	\$1,000	1	\$1,000	1	YES
Residential Cooperative Building	\$1,000	3	\$1,000	1	\$1,000	1	\$1,000	1	NO
Vacant Lot Zoned Residential	\$1,000	3	N/A	N/A	\$1,000	1	\$1,000	1	NO
Small Store or Office with 1 or 2 Apartments Above	\$1,000	3	\$2,000	1	\$1,000	1	\$1,000	1	YES
Housing Development Fund Corporation (HDFC) Rental Building	\$5,000	2	\$5,000	2	\$5,000	2	\$5,000	2	NO
All other	\$1,000	1	\$1,000	1	\$1,000	1	\$1,000	1	NO

Exclusions from Tax Lien Sale

- Liens for water/sewer charges on a 1-family home will not be sold if there is no real property tax component.
- Properties receiving a senior citizen, disabled homeowner, or veteran's exemption are generally excluded from lien sales.
- Active-duty military personnel may request exclusion by submitting an affidavit.

Admin Code §11-319(a)

Enforcement - In Rem Proceedings

- Chapter 4 of Title 11 of the Administrative Code details the process for tax lien foreclosures through in rem proceedings
- In rem proceedings are commenced by the City itself
- Currently in rem proceedings are commenced as part of the Third Party Transfer program
 - Property foreclosed pursuant to this program are transferred to new third-party owners to resolve outstanding issues. Admin Code §11-412.1
- The Third Party Transfer program is intended as a preservation program for distressed properties at risk of abandonment or speculation by transferring properties to new responsible qualified owners
- Class one and class two properties with a lien-to-value ratio of 15% and (1) have an average of five or more hazardous/immediately hazardous violations of the Housing Maintenance Code per dwelling unit, or (2) are subject to liens in excess of \$1,000 for expenses incurred by Housing Preservation and Development for repairs are designated “distressed property”, and excluded from the general tax lien sale.
 - Such properties are instead subject to in rem foreclosure proceedings. Admin Code §11-401.1