

# TAX ACTION

## COOPERATIVES & CONDOS STYMIED BY PROPERTY TAX LIMBO

### HISTORIC PERSPECTIVE

Home owners in New York City cooperatives and condominiums pay far more than their fair share of property taxes. In 1990, CNYC formed the Action Committee for Reasonable Real Estate Taxes to bring this fact to the attention of lawmakers and to advocate for tax fairness.

In 1996 an abatement program was put in place as an interim measure while the City was to develop a permanent plan for property tax fairness. It provided for 17.5% reduction of property taxes for all qualifying units in cooperatives and condominiums whose assessed value averaged more than \$15,000 per unit and a 25% reduction for those with lower assessed values.

Instead of meeting the mandate to reform taxation, the City proposed extenders of the abatement program when it was scheduled to sunset in 1999, 2001, 2004 and 2008. Once again, in February 2011, the date for the City to present a long term plan for property tax fairness came and went with no permanent plan proposed.

In the intervening years, assessments throughout the City had risen, so that very few cooperatives or condominiums were now eligible for 25% abatements.

Precipitous assessment increases in outer boroughs in 2011 had drawn protests so vocal that the City had capped tax increases for affected properties.

### EXTENDER LEGISLATION

In the spring of 2012, at CNYC's request, legislation was introduced in the Senate and Assembly for another extension of the abatement program.

And then there were hints that the City was working on the abatement program. And at the same time there were repeated assurances from the City that the abatement would be included in property tax bills for July 1st payment. In 1999 and 2001, when extenders weren't passed until later in the summer, July billings had been for the full amount of property taxes. In fact, it was to avoid the disruption caused in those two instances that CNYC had requested early introduction of extender legislation in 2004, 2008 and this year.

Finally, in the middle of May, without prior discussion with CNYC or the Action Committee or any other affected parties, the City revealed in discussions that it was planning modifications to the abate-

ment program. The City proposed to extend the abatement program in its new form for just 3 years. CNYC would have preferred a 4 year extender to give the next administration time to undertake the complex task of true tax reform with a view to treating all New York City taxpayers fairly. A positive aspect of the proposals would reestablish higher abatements in buildings with lower assessed value.

Another aspect was the proposed limitation of the abatement to people's primary residences (plus up to two additional units in the same building as the primary residence). While this is not necessarily an unreasonable modification, it is not a distinction made for Class 1 properties. Therefore, this proposal makes homeowners in cooperatives and condominiums less like Class 1 homeowners; precisely contrary to the intent of the initial abatement legislation.

The modifications were to be phased in over a period of two to three years.

### CITY PROPOSED AMENDMENT

These charts show the three year abatement program proposed by the City:

Available only on one's primary residence and up to two additional units in the same building.

The thresholds for abatement to be modified as follows:

Average Assessment Per Unit:	\$50,000 or less	\$50,000-\$55,000	\$55,000-\$60,000	Over \$60,000
2012-2013	25%	22.5%	20%	17.5%
2013-2014	26.5%	23.8%	21.2%	17.5%
2014-2015	28.1%	25.2%	22.5%	17.5%

Non-primary residential units that received an abatement in FY2011 follow this phase out schedule:

Average Assessment Per Unit:	\$15,000 or less	Over \$15,000
2012-2013	12.5%	8.75%
2013-2014	6.25%	4.375%
2014-2015	0%	0%

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### NO EXTENDER PASSED

On June 18th, three days before the scheduled close of the legislative session, the final wording of the City's proposed abatement legislation was introduced. This important legislation was coupled with modifications to the City's J-51 and 421A programs and with provisions regarding credit against the New York city personal income tax for income from S corporations in the city.

The New York State Constitution requires 'aging' of legislation prior to its consideration by the Senate or the Assembly, presumably to allow lawmakers to study the proposal and to enable interested parties to comment. This procedure can be bypassed only with a Message of Necessity from the Governor. Governor Cuomo determined that there were no grounds for such a message, and so the legislative session ended on schedule on June 21st without consideration of the City's bill or of the bills that would have simply extended the abatement program.

### SPECIAL SESSION PROMISED

State Senators and members of the Assembly then went home amid assurances that they will return to Albany for a special session where the City bill is sure to be passed. These lawmakers are running for reelection in November, and the special session is not anticipated to take place before the election. See page 2 about ensuring that every candidate seeking your vote knows how important property tax fairness is to you.

### "OLD" ABATEMENT ON JULY BILLS

As promised, the Department of Finance included the property tax abatement – in its 2011 form – in bills for payment on July 1, 2012. October bills were recently sent out with the same figures. This raises several questions, which are outlined below. CNYC has tried since June to make an appointment with the Department of Finance to get answers to these questions, but has not yet been successful.

### IMPLEMENTATION QUESTIONS

1) If the City's plan is implemented, cooperatives and condominiums with lower assessed value will qualify for additional abatements.

#### When and how will this be credited?

2) At the same time, some of the abatement accorded to units that are not the primary residence of their owners will have to be returned to the city.

#### When and how will this occur?

3) And how, exactly does the Department of Finance propose to ascertain without error which apartments are primary residences?

#### Can this realistically be done for implementation this year?

4) In the case of condominiums, each unit owner receives a bill from the City where abatements and exemptions are calculated and explained. For cooperatives, however, the situation is very different: since there is one property tax bill for the entire cooperative, deductions are made from this tax bill for the various exemptions and abatements for which shareholders have qualified. It is the responsibility of the cooperative to distribute these exemptions and abatements to the appropriate apartments before the end of the fiscal year (June 30th). To facilitate this distribution, it has been the practice of the Department of Finance to provide a chart enumerating precisely what is due to each apartment for property tax abatements, the STAR program and any special benefits for qualifying seniors, veterans, and people with disabilities. This information is generally sent in November (often to the managing agent), and cooperatives have until the end of the fiscal year (June 30th) to distribute these sums.

#### With the abatement currently in limbo, when can cooperatives expect to receive this important information?

5) Finally, the July and October bills were calculated using this year's assessment and last year's tax rate.

This has become a regular practice in the City, with the City Council typically setting the new tax rate in the summer or fall, and the Department of Finance making adjustments on January and April tax bills. In a year of deficits and crises, it is very unlikely that the tax rate will go down. Thus there will already be increased tax liability when the adjustment is made.

#### When will this adjustment appear on tax bills?

### BUDGETARY IMPLICATIONS OF PROPERTY TAX LIMBO

Cooperatives and condominiums typically prepare their budgets in October and November in order to begin the New Year with new levels of carrying charges (maintenance). Because condominium unit owners each pay their own property taxes, the condo budget process is not affected by this issues.

But the uncertainty regarding property tax abatements forces the boards and management of cooperatives to make a number of assumptions, as they prepare their draft budgets. Possibly the special legislative session will come early enough in November for them to choose between Plan A and Plan B before having to announce the new budget to shareholders.