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MARKET INSIGHT

The New NYC Pied-à-Terre Tax: Can Property Owners Challenge the Department of Finance's Market Value?

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New York City's recently enacted surcharge on certain non-primary residences, commonly referred to as the "pied-à-terre tax," introduces a new layer of complexity for owners of high-value residential property. While much of the discussion has focused on determining whether a property qualifies as a primary residence, another important question has received far less attention:

"Can a property owner challenge the Department of Finance's determination of market value?"

From a real estate valuation perspective, the answer appears to be yes, although exactly how those challenges will be evaluated remains an evolving area of law.

THE TAX DEPENDS ON MORE THAN RESIDENCY

The surcharge applies only after two threshold determinations are made:

- The property is determined not to be the owner's primary residence.
- The property's market value exceeds the applicable statutory threshold established by the legislation.[1]

As a result, the amount of the surcharge, and in some cases whether the surcharge applies at all, depends directly on the market value assigned by the New York City Department of Finance ("DOF").

HOW DOES THE DEPARTMENT OF FINANCE DETERMINE MARKET VALUE?

The answer depends on the type of property and the implementation phase of the legislation.

Phase One (July 1, 2026 through June 30, 2028)

During the initial implementation period, different valuation methodologies apply depending on the property type.

For one- to three-family homes, the Department of Finance continues to rely on its existing mass appraisal system, which estimates market value primarily through the analysis of comparable sales.

For condominiums and cooperative buildings, however, the Department is required by state law to continue using its longstanding assessment methodology. Rather than valuing these properties based on actual condominium or cooperative sales, they are valued as though they were conventional rental apartment buildings. Comparable rental properties are analyzed to estimate income, expenses, and net operating income, which is then capitalized into an estimated building value. Individual condominium unit values are allocated from the total building value using each unit's common interest percentage, while cooperative buildings receive a single building-level market value.[2]

Because this methodology is based on hypothetical rental economics rather than actual sales of condominium or cooperative units, the resulting values have historically differed, sometimes significantly, from open market transaction prices.

Recognizing this difference, the legislation establishes a lower Phase One surcharge threshold for condominiums and cooperatives than for one- to three-family homes.[3]

Phase Two (Beginning July 1, 2028)

Beginning July 1, 2028, the legislation requires the Department of Finance to transition condominiums and cooperatives to a new sales-based valuation methodology for purposes of the surcharge. At that point, all covered residential property types will generally be valued using methodologies intended to more closely reflect actual market transactions.[3]

CAN OWNERS CHALLENGE THE DEPARTMENT'S MARKET VALUE?

One of the more significant aspects of the legislation is that it expressly permits owners to challenge the Department's determination of market value.

Section 11-3206 of the New York City Administrative Code provides property owners with the right to seek review of both the Department's determination that a property is not a primary residence and its determination of market value.[4]

This is an important distinction. The law does not limit appeals solely to residency status. It also provides an independent mechanism to challenge the Department's valuation.

WHAT EVIDENCE MAY BE USED?

Perhaps the most interesting aspect of the legislation is what it does not say.

Neither the statute nor the implementing regulations specify:

- what evidence must be submitted to challenge market value;
- whether independent appraisals are required or permitted;
- the degree of deference that will be given to the Department's valuation methodology; or
- how competing valuation evidence will ultimately be evaluated.[4–5]

As a result, the role of independent appraisals in these proceedings remains an open question that will likely be shaped through future administrative decisions and judicial interpretation.

LOOKING AHEAD

The new pied-à-terre tax places real estate valuation at the center of tax administration in a way not previously seen in New York City.

Although the legislation clearly provides owners with the right to challenge the Department of Finance's market value determination, many practical questions regarding valuation methodology and evidentiary standards remain unanswered. As guidance continues to develop through administrative proceedings and judicial decisions, property owners and their advisors should pay close attention to how these valuation disputes are resolved.

For valuation professionals, the legislation also underscores the growing importance of credible, well-supported market value analyses in matters extending beyond traditional lending and assessment assignments.

SOURCES & FOOTNOTES

1. New York State Fiscal Year 2026–2027 Budget, creating Article 30-C of the New York State Tax Law (City Surcharge on Property That Does Not Serve as a Primary Residence).
2. NYU Furman Center, *Understanding New York City's Property Tax System* (explaining the Department of Finance's methodology for valuing condominium and cooperative buildings as income-producing rental properties for assessment purposes).
3. New York State Tax Law, Article 30-C and related implementing provisions establishing Phase One and Phase Two valuation methodologies and applicable surcharge thresholds.
4. New York City Administrative Code § 11-3206 (Review of Determinations).
5. Rules of the City of New York, Chapter 58 of Title 19, implementing the surcharge on certain non-primary residences.