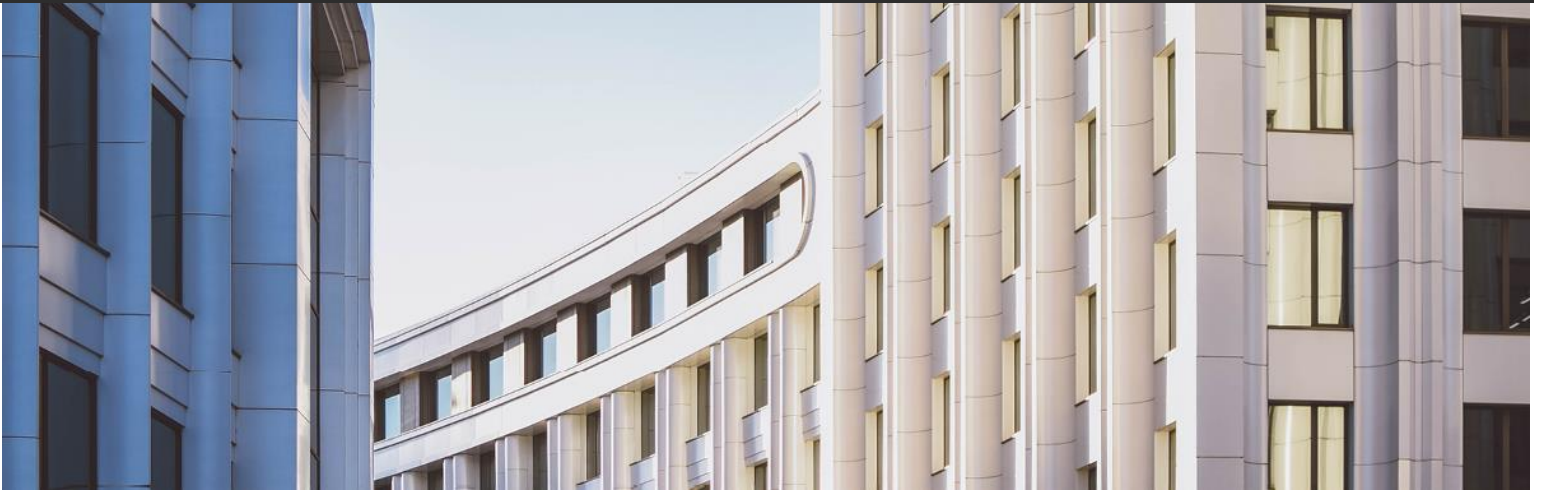


Alert | State & Local Tax (SALT)/Real Estate Tax



May 2025

New York Budget Law May Discourage Institutional Ownership of Single and Two-Family Homes

The New York State budget for fiscal year 2025-2026 **placed restrictions** on certain institutional investors owning 10 or more one and two-family homes. These restrictions and tax changes may alter the economics of institutional investing in the single and two-family housing market.

A covered institutional real estate investor is “an entity or combined group that: (i) owns ten or more single-family residences and/or two-family residences; (ii) manages or receives funds pooled from investors and acts as a fiduciary with respect to one or more investors; and (iii) has fifty million dollars or more in net value or assets under management on any day during the taxable year.”

An entity is considered owning a single-family or two-family residence if it owns the property directly or indirectly owns 10% or more of the residence. Covered entities do not include organizations described in Internal Revenue Code section 501(c) (3) and exempt from tax under IRC section 501(a). Land banks and community land trusts are excluded from the definition of a “covered entity.”

There are non-tax restrictions on institutional investors seeking to purchase single and two-family homes. As of July 1, 2025, it will be unlawful for such purchasers to acquire or offer to purchase or acquire any interest in a one or two-family home unless the property has been listed for sale publicly for at least 90 days. Also, the 90-day period restarts if the asking price changes, and the penalty for violating this provision may be up to \$250,000.

Regarding tax changes, New York has amended its tax laws to prevent institutional investors from claiming depreciation and interest deductions on single-family and two-family homes when filing their New York tax returns, even though these deductions will still be available on federal tax returns. This change applies to institutional investors leasing the homes to residents; investors holding these properties in inventory for resale cannot claim depreciation on those assets.

The new law provides that interest (not depreciation) deductions will be available with respect to interest paid or accrued in the taxable year. These deductions apply when the property is sold to an individual who will use it as their principal residence or to a nonprofit organization focused on creating, developing, or preserving affordable housing.

While the 90-day restriction on purchasing one and two-family homes is effective July 1, 2025, the tax provisions are effective for tax years beginning on or after Jan. 1, 2025.

Several issues in this legislation remain unclear:

1. Is the ownership of 10 one and two-family homes limited to homes in New York, or if an institution owns nine such homes in New Jersey and only one in New York, would it be subject to these rules?
2. Will the disallowance of interest and depreciation deductions apply only to New York properties, or will auditors make an “above the line” adjustment disallowing interest and depreciation deductions for properties located outside New York when arriving at taxable income as required to be reported to the U.S. Treasury Department?
3. Will the disallowance of depreciation and interest expense be applied to properties acquired before Jan. 1, 2025?

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