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New Rules Concerning the Correction of Errors in Assessment of Real Property Taxes Will Go Into Effect in NYC

On June 16, 2016, new [Rules issued by the New York City Department of Finance](#) (the Department) regarding the correction of errors concerning the assessment of real property taxes go into effect. Title 19 of the Rules of the City of New York was amended to add a new Chapter 53 authorizing the Commissioner of the Department of Finance to correct certain errors in any assessment or tax and to provide a procedure to apply for the correction.

The statutory basis for the power to correct errors in the assessment of properties for real property tax purposes within the City is found in NYC Administrative Code §11-206. That law provides: “[t]he commissioner of finance may correct any assessment or tax which is erroneous due to a clerical error or to an error of description contained in the several books of annual record of assessed valuations, or in the assessments-rolls. 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.”

The new Rules require an application to be filed by an owner or any other person entitled to protest the assessment to the Tax Commission under NYC Charter §163. Charter §163(b) states “any person or corporation claiming to be aggrieved by the assessed valuation of real estate may apply for correction of such assessment.” In general, anyone responsible for paying the property tax would be ‘aggrieved’ and permitted to file a protest.

The new Rules identify the types of errors the Department will consider correcting—not everything that one might think of as an error or mistake will be reviewed by the Department for correction. The following are errors that will be considered for correction:

- > Failure to process a partial exemption if a timely application was made but the exemption was not implemented due to a lost application;

- > A programming or input error resulting in a value for the property different from what the assessor intended (*e.g.*, an assessor values a building at \$1 million but the assessment roll show it at \$10 million due to a programming or input error);
- > Errors in description including incorrect tax class or subclass resulting from an error in the Department's records of physical characteristics of the property (*e.g.*, number of units);
- > Physical changes not put on the assessment roll or put on as an equalization change or equalization changes that were erroneously put on the assessment roll as physical;
- > Physical changes added when no physical work was done or the failure to be given a 'progress assessment';
- > Incorrect addition of improvements which were destroyed or removed prior to the tax status date or were not in existence at the parcel (*e.g.*, the improvement was made on a neighboring tax lot);
- > Errors due to inaccurate square footage, number of units, building class or incorrect apportionment of the parcel or land that was incorrectly identified as developable when it is not; and
- > Erroneous calculation of transitional assessments or those limited by statute or defective changes by notice.

Errors that are **not** subject to the administrative review include:

- > Overvaluation due to inappropriate comparables;
- > Incorrect valuation models; and
- > Errors in land/building ratios and incorrect calculations of exemptions based on an error in application of the exemption statute (inclusion of an additional year in an exemption calculation that was held by a court not to be a clerical error).

Most notably, the new Rules state that the Department of Finance will only correct the eligible errors noted above that occurred within six years of the date of the submission of the application. Errors that are more than 6 years old will not be reviewed.

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