

HOW TO NAVIGATE NEW YORK'S PROPERTY TAX EXEMPTIONS

The Empire State's exemptions can undoubtedly be subject to interpretation, and some communities ultimately opt out.

By Jason Penighetti, Esq., of Forchelli Deegan Terrana

Property taxes are a substantial expense for businesses and commercial property owners in New York, and taxpayers in the state are contesting property assessments in record numbers.

Many owners are going the extra mile, however, by exploring exemption opportunities. Exemptions can significantly reduce property taxes and free up capital for investment in new developments, renovations and other drivers of long-term growth.

State and local governments typically offer commercial property owners a variety of tax exemptions, all of which reduce a property's taxable assessed value and thereby lower the taxpayer's overall liability. Full exemptions eliminate the entire tax obligation, while partial exemptions reduce the taxable amount.

Since local governments administer many exemptions, eligibility requirements and benefits often depend on the municipality.

Generally speaking, owners must prove that the property in question is being used for the exempt purpose specified in the governing statute; that all portions of the property contribute to that purpose; and that no profit derives from its operation.

For a full exemption, the entire property in question must be used for the exempt purpose. Any portion that does not meet this requirement is typically returned to the tax rolls.

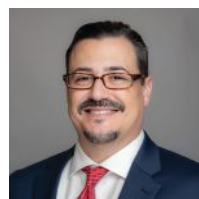
Qualifying Scenarios

Taxpayers must decide not only which exemption to pursue, but also whether the property and ownership structure qualify. What follows are several provisions and programs that have helped New York property owners garner tax exemptions.

For starters, vacant properties may qualify. A temporarily vacant or unused property could qualify for an exemption if the owner can demonstrate its imminent use with an exempt purpose. Municipalities may accept proof such as construction plans, site grading or renovation projects as evidence of intended use.

In recent years, however, local governments have tightened their interpretations of these requirements and are actively seeking opportunities to return exempt properties to the taxable assessment roll.

Leveraging nonprofit status is also important. A common question arises when a taxable property is leased to a tax-exempt entity: Does the property qualify for an exemption based on the



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tenant's nonprofit status? The short answer is, sometimes. In New York, the prevailing legal interpretation is that ownership, rather than tenancy, determines exemption eligibility.

However, Section 420-b of the New York Real Property Tax Law (RPTL) includes an important exception. The statute holds that a property that is owned by a for-profit entity and is leased to a nonprofit organization may still qualify for an exemption — but only if the rent does not exceed the actual costs of carrying, maintaining and depreciating the property.

Since the language of the statute does not precisely define these terms, courts have been left to interpret their meaning, leading to legal disputes over compliance.

Economic Development

Section 485-b of NY RPTL provides property tax relief to encourage economic development. This provision serves to benefit property owners who undertake construction, renovations or similar capital improvement projects to commercial properties by offering a partial exemption on increased property taxes resulting from these enhancements.

The exemption follows a declining scale over 10 years, starting with a 50 percent exemption on the increased assessed value in the first year and decreasing by 5 percent in each subsequent year.

To qualify for this exemption, projects must meet specific criteria set by local governments, which also have the authority to opt into or out of the statute.

Find an Agency Partner

Industrial development agencies (IDAs) provide various incentives to businesses that create jobs and stimulate the local economy.

For projects that contribute to economic development, potential benefits include exemptions on sales tax for construction materials and equipment purchases, as well as exemptions that can substantially reduce or eliminate mortgage recording taxes. In addition, IDA offerings can include real estate tax exemptions under structures such as payment-in-lieu-of-taxes or a PILOT agreement.

The latter typically requires that the property be removed from the taxable assessment roll and that the owner make scheduled, agreed-upon tax payments for the term of the agreement, as opposed to less predictable property taxes, which can change based on the budgetary needs of the taxing municipality.

Owners should apply directly to the local IDA for these benefits and be prepared to demonstrate how the project will benefit the community. Manufacturing and industrial projects typically qualify, and other commercial development, such as rental housing, may also be eligible.

For commercial property owners, reducing tax liabilities can lower costs and support business growth. Whether through annual assessment appeals, Section 485-b exemptions or IDA incentives, avenues exist that can yield significant tax savings.

While in the process of navigating these various and sundry opportunities, it is critical to pay special attention to nuanced statutory language

and keep abreast of evolving judicial interpretations. To that end, having an experienced, local advisor can also be instrumental in helping property owners identify and pursue exemptions, ensure compliance and maximize tax savings.

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