



## New York City's Pied-a-Terre Tax

The New York State Legislature recently amended the New York State Tax Law to include a new tax on owners of residential properties in New York City that do not serve as the owner's primary residence. This tax has been referred to by the press and politicians as the Pied-a-Terre Tax and is effective as of July 1, 2026. The tax is a surcharge and is in addition to any real property taxes that may be assessed against a covered property.

The tax applies to one, two, or three family homes, residential condominium units, or residential cooperative apartments of a certain value that are not deemed to be the taxpayer's primary residence. The determination of whether a residential property is a primary residence will be determined by the New York City Department of Finance (DOF) based on rules to be promulgated by the DOF which shall include, but not be limited to, the number of days the property is occupied by the owner or an immediate family member of the owner during the fiscal year. Immediate family members are defined as a spouse, child, sibling, parent, grandparent, or grandchild.

The tax will be implemented in two phases. The first phase – which commences July 1, 2026, and expires on June 30, 2028 – will affect one, two, or three family homes with a fair market value of \$5 million or more as well as residential condominium units and residential cooperative units with a fair market value of \$1 million or more.

For purposes of establishing the fair market value of a residential property during Phase 1 for one, two, and three family homes and residential condominium units, the DOF will use the market value attributed to a property by DOF as set forth on its real property assessment notices. For residential cooperative dwelling units DOF will determine the market value of an apartment by multiplying the coop buildings market value, as it appears on its assessment notice, by a fraction which has as its numerator the number of shares allocated to the cooperative apartment and its

denominator as the total number of outstanding shares issued by the cooperative corporation

During the second phase – which commences July 1, 2028, and expires June 30, 2031 – the determination of fair market value for one, two, and three family homes will remain based on DOF's assigned market value, as may be restricted by New York State and New York City law.

The fair market value of residential condominium units and residential cooperative units will be based on a method using comparable sales of similarly situated properties without regard to any restrictions on assessment methods for residential condominium and cooperative units as set forth by New York State law. Current New York State law, adopted in 1981, provides that residential condominiums and cooperatives are assessed as if they were rental properties, determining values based on an income capitalization approach as opposed to using a comparable sales method.

The tax is based on the estimated fair market value of the covered property. During Phase 1 of the tax (7/1/2026-6/30/2028), the tax rates for one, two, or three family homes is: 0.8 percent where the market value is \$5 million or more but less than \$15 million; 1.05 percent where the market value is \$15 million or more but less than \$25 million; and 1.3 percent for properties with a market value of \$25 million or more.

The surcharge during Phase 1 for residential condominium units and residential cooperative units is: 4.0 percent where the market value is \$1 million or more but less than \$3 million; 5.25 percent where the market value is \$3 million or more but less than \$5 million; and 6.5 percent for properties with a market value of \$5 million or more.

The surcharge during Phase 2 (7/1/2028-6/30/2031) for all covered properties (one, two, or three family homes, residential condominiums, and residential cooperative dwellings) is: 0.8 percent where the market value is \$5 million or more but less than \$15 million; 1.05 percent where the market value is \$15 million or more but less than \$25 million; and 1.3 percent for properties with a market value \$25 million or more.

The tax will be due when real estate taxes are due, either quarterly or semiannually. For cooperative apartment buildings, which are generally a single tax lot and receive

one property tax bill, the cooperative corporation's Board of Directors will be responsible for billing and collecting the tax from the tenant-shareholders who are subject to the tax.

It is anticipated that the tax and its implementation will generate a fair amount of litigation. The statute was passed quickly and there are a myriad of issues that the statute raises but does not address. There currently are no administrative rules to contest DOF's determination of whether a property is a primary residence. The only remedy that currently exists would be to commence a litigation in the courts against the DOF.

Clients must monitor the implementation of the tax to keep apprised of any change in the law or litigation affecting the tax.

*This blog was drafted by [Steven Hochberg](#), an attorney in the Spencer Fane New York City office. For more information, visit [spencerfane.com](http://spencerfane.com).*