

Exemption Administration Manual - Part 2

Multiple Dwellings

Section 4.07 - PHFL Section 33(1)(d)

Limited-Profit Housing Companies
(Projects financed by federally insured mortgage loan)

PHFL Section 33(1)(d)

Exemption Code(s): 48650

Year Originally Enacted: 1976

Related Statutes: PHFL Articles 2, 3
PHFL §§23-a, 23-b, 44-b, 654(22-a)
NYS Constitution Article 18, §2

SUMMARY: Property included in a limited-profit (Mitchell-Lama) housing company project that was originally financed with a mortgage loan made pursuant to PHFL Article 2 or 3 and (1) has received a new loan, participation, or investment pursuant to PHFL §23-b or (2) the original mortgage loan has been assigned, modified, or satisfied pursuant to PHFL §§23-a, 44-b, or 654(22-a) is eligible for partial exemption from taxation, but is liable for special ad valorem levies and special assessments. The amount of exemption is limited to that part of the assessed value which exceeds the value of the property when acquired for the project by the original mortgagor (subject to minimum limits on taxes payable as described under Limitations on Exemption below.)

A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Property must be (a) owned by a limited-profit (Mitchell-Lama) housing company, (b) originally financed with a mortgage loan made pursuant to PHFL Article 2 or 3, (c) subject to a federally insured mortgage loan, and either (d) subject to a new loan, participation, or investment pursuant to PHFL §23-b or (e) subject to a mortgage loan which has been assigned, modified, or satisfied pursuant to PHFL §§23-a, 44-b, or 654(22-a). (Note: A new loan, participation, or investment made pursuant to PHFL §23-b is considered the equivalent of a federally insured mortgage.)

The specific organizational requirements for such housing companies are as follows:

Limited-profit (Mitchell-Lama) housing company (co-op):

Law under which incorporation required: PHFL Article 2.

Restriction on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized to plan, acquire, construct, own, maintain, and operate housing projects subject to the supervision of the State Commissioner of Housing or other appropriate authority, (2) no director or subscriber of the company may receive, in repayment of his investment in the company's stock, any sum in excess of the par value of the stock, together with such dividends or other compensation permitted under PHFL Article 2, and (3) company's housing projects must, to the extent of at least 80%, be occupied by persons or families entitled to occupancy through ownership of shares in the company.

Limited-profit (Mitchell-Lama) housing company (other):

Law under which incorporation required: PHFL Article 2.

Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized to plan, acquire, construct, own, maintain, and operate housing projects subject to the supervision of the State Commissioner of Housing or other appropriate authority and (2) no director or subscriber of the company may receive, in repayment of his investment in the company's stock, any sum in excess of the par value of the stock, together with such dividends or other compensation permitted under PHFL Article 2.

2. **Property Location Requirements:** None.
3. **Property Use Requirements:** Property must be used for housing for low-income or middle-income persons. For a description of the income limits for low-income persons, see Chart ID, PHFL Article 2, 31. The statute sets no limits on the income of middle-income persons.
4. **Certification by State or Local Government:** Amount of tax exemption due to rental assistance payments under U.S. Housing Act 8 must be certified annually by the State Commissioner of Housing, the NYC Department of Housing Preservation and

Commissioner of Housing, and the Department of Housing, Rehabilitation and Development, or the comptroller or other chief fiscal officer of a municipality outside New York City, as appropriate.

5. **Required Construction Start Date or Other Time Requirement:** None.

B. **LOCAL OPTION:** Not for the initial exemption. However, an existing exemption may be extended for an additional period following the expiration of the initial tax exemption period (see Limitations on Exemption below).

C. **LIMITATION ON EXEMPTION:**

	General Municipal Taxes	School District Taxes	Special Ad Valorem Tax	Special Assessments
1. Amount	Yes*	Yes*	No exemption allowed	No exemption allowed
2. Duration	Yes**	Yes**	No exemption allowed	No exemption allowed
3. Taxing Jurisdiction				
a. County or County Special Districts	Ex	NA	Tax	Tax
b. City	Ex	NA	NA	Tax
c. Town or Town Special District	Ex	NA	Tax	Tax
d. Village	Ex	NA	NA	Tax
e. School District	NA	Ex	NA	NA
	Ex-Exempt	Tax-Taxable	NA-Not Applicable	

* Amount of exemption is limited to that part of the assessed value which exceeds the value of the property at the time of its acquisition by the original mortgagor under a mortgage loan made pursuant to PHFL Article 2 or 3. In addition, taxes paid must not be less than 10% of the annual shelter rent or carrying charges of the project. (Shelter rent" equals the total rents received from the occupants of a project minus the cost of providing electricity, gas, heat, and other utilities. Total rents may or may not include rent supplements and subsidies from the federal government, the state, or a municipality on behalf of the occupants, but do not include interest reduction payments received under 201(a) of the Federal Housing and Urban Development Act of 1968. In the case of co-op projects, carrying charges, rather than shelter rent, apply.)

** Duration of exemption is limited to the period beginning when the project becomes subject to a federally insured mortgage and continues:

1. as long as a mortgage on such property is insured or held by the federal government,
2. as long as the project is thereafter owned by the federal government, or
3. as long as any residual indebtedness of the company is outstanding, whichever period is longest,

but in no event for a period of more than 60 years (the limit set by 2 of the Article 18 of the NYS Constitution on exemptions for projects involving housing for persons of low income and involving slum clearance).

After the tax exemption period has expired, each county, city, town and village in which the property is located may choose to grant an additional exemption period, of up to 50 years, or until such time as the project no longer complies with the operating requirements of the Mitchell-Lama Program, whichever is sooner.

D. **PAYMENTS IN LIEU OF TAXES:** None required.

E. **CALCULATION OF EXEMPTION:**

1. **General Municipal and School District Taxes:** 100% of that part of the assessed value which exceeds the value of the property at the time of its acquisition by the original mortgagor under a mortgage loan made pursuant to PHFL Article 2 or 3 (subject to minimum limits on taxes payable as described under Limitations on Exemption above).

2. **Special Ad Valorem Levies and Special Assessments**: No exemption allowed.

F. **CODING OF EXEMPTION ON ASSESSMENT ROLL:**

<u>Code</u>	<u>Description of Alternative Codes Possible</u>
48650	

Assessment Roll Section(s): Taxable (RPS Section 1).

NOTE: This code should not be used to identify property that is exempt under any of the statutes listed under Similar Exemptions below.

G. **FILING REQUIREMENTS (Owner or Occupant of Property):** None.

H. **REPORTING REQUIREMENTS (Assessor):** None.

I. **SIMILAR EXEMPTIONS:** See [Chart IA](#) and [Chart IB](#).

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