

Exemption Administration Manual - Part 2

Multiple Dwellings

Section 4.07 - PHFL Section 33(2)

Limited-Profit Housing Companies
(Dwellings Leased to NYS Housing Finance Agency)

PHFL Section 33(2)

Exemption Code(s): 48460

Year Originally Enacted: 1964

Related Statutes: PHFL §§31, 44-a

SUMMARY: Dwellings, together with a proportionate share of the land and common spaces, included in a limited-profit (Mitchell-Lama) housing company project that are leased to the NYS Housing Finance Agency (NYSHFA) and used for low-rent housing are partially exempt from taxation and special ad valorem levies, but are liable for special assessments.

The amount of exemption is limited to that part of the assessed value which exceeds the proportionate assessed value of the property when originally acquired for the project, and the duration of the exemption is limited to the period during which the NYSHFA leases the property. Payments in lieu of taxes and special ad valorem levies are required to be paid to the appropriate county, city, town, village, school district, and special district if for any year the aggregate amount of taxes and levies that would have been payable without the exemption exceeds the amount payable out of the low-rent housing assistance account pursuant to PHFL §44-a(4) (see Payments in Lieu of Taxes below).

A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Property must be owned by a limited-profit (Mitchell-Lama) housing company and must be leased to the NYS Housing Finance Agency (NYSHFA). In the case of a mutual (co-op) company, dwellings may be leased to the NYSHFA only when that agency purchases the shares in such dwellings. The specific organizational requirements for the owner are as follows:

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

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, (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, (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:**
 - a. The NYSHFA may not lease more than 20% of a housing project unless the State Commissioner of Housing determines that difficult housing conditions exist. In such cases, the NYSHFA is limited to no greater than a 50% share of the project.
 - b. Dwellings must be sublet only to persons or families whose probable aggregate annual income does not exceed 5 times the rental of the dwelling unit (for more information on income limits, see Chart ID, PHFL Article 3). However, in the case of dwellings other than those improved through a municipal loan made pursuant to PHFL Article 9, if tenant income exceeds this limit, the tenant may continue to

PHFL Article 6, if tenant income exceeds this limit, the tenant may continue to occupy the dwelling unit but must pay a rental surcharge. In addition, the average rental per room per month may not be less than \$15 or less than that of comparable dwellings in new state-aided public housing projects in the community, whichever is greater.

4. **Certification by State or Local Government:** None.
5. **Required Construction Start Date or Other Time Requirement:** None.

B. LOCAL OPTION: No.

C. LIMITATION ON EXEMPTION:

	General Municipal Taxes	School District Taxes	Special Ad Valorem Tax	Special Assessments
1. Amount	Yes*	Yes*	Yes*	No exemption allowed
2. Duration	Yes**	Yes**	Yes**	No exemption allowed
3. Taxing Jurisdiction				
a. County or County Special Districts	Ex	NA	Ex	Tax
b. City	Ex	NA	NA	Tax
c. Town or Town Special District	Ex	NA	Ex	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 proportionate assessed value of the project when originally acquired for the project.

** Duration of exemption is limited to the period during which the NYSHFA leases the property.

D. PAYMENTS IN LIEU OF TAXES: Payments in lieu of taxes and special ad valorem levies are required to be paid to the appropriate county, city, town, village, school district, and special district if for any year the aggregate amount of taxes and levies that would have been payable without the exemption (including a proportionate share of the land and common spaces) exceeds the amount payable out of the low-rent housing assistance account pursuant to PHFL §44-a(4). The required total amount of payments in lieu of taxes equals one half of the sum of (1) the amount of excess and (2) the difference between (a) the rents collected by the NYSHFA for the sublease of the dwelling and (b) the amount paid by the NYSHFA for the lease of the dwelling.

Example:

- a. Taxes payable on NYSHFA-leased portion of property if exemption did not exist = \$120,000
- b. Amount payable out of low-rent housing assistance account = \$80,000
- c. Rents collected by NYSHFA for sublease of dwelling = \$60,000
- d. Amount paid by NYSHFA for lease of dwelling = \$50,000

Total amount of payments in lieu of taxes and special ad valorem levies required to be paid equals:

$$\begin{aligned}
 & 50\% \times [(a - b) + (c - d)] \\
 & = 50\% \times [(\$120,000 - \$80,000) + (\$60,000 - \$50,000)] \\
 & = 50\% \times [\$40,000 + \$10,000]
 \end{aligned}$$

= \$25,000

Since they are not collected by the tax collector, payments in lieu of taxes should not be entered on the tax roll. Such payments are collected in the same manner as are other payments due the municipality under contract.

E. CALCULATION OF EXEMPTION:

1. **General Municipal and School District Taxes:** 100% of that part of the assessed value attributable to the NYSHFA-leased portion of the dwelling (including a pro rata share of the land and common spaces) which exceeds the assessed value of that portion when the property was originally acquired for the project.

2. **Special Ad Valorem Levies and Special Assessments:**

Special Ad Valorem Levies: 100% of that part of the assessed value of the project attributable to the NYSHFA-leased portion of the dwelling (including a pro rata share of the land and common spaces) which exceeds the assessed value of that portion when the property was originally acquired for the project.

Special Assessments: No exemption allowed.

F. CODING OF EXEMPTION ON ASSESSMENT ROLL:

<u>Code</u>	<u>Description of Alternative Codes Possible</u>
48460	

Assessment Roll Section(s): Taxable (ARLM 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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