

## Exemption Administration Manual - Part 2 Multiple Dwellings

Section 4.07 - PHFL Section 33(4)

**Limited-Profit Housing Company(Mutual company (co-op) organized for acquisition of building by its residents)**      **PHFL Section 33(4)**

Exemption Code(s): 4865

Year Originally Enacted: 1971

Related Statutes: RPTL §489  
PHFL Article 2

**SUMMARY:** Property of a mutual company (co-op) organized as a limited-profit (Mitchell-Lama) housing company to facilitate the acquisition of a building by its residents is exempt from general municipal and school district taxes to the extent that such taxes exceed 20% of the annual shelter rent or carrying charges of the project. Such property is, however, liable for special ad valorem levies and special assessments.

With the consent of the local legislative body, taxes on property rehabilitated or otherwise improved by the housing company may be reduced below the 20% ceiling, but may not be reduced below 10% of the annual shelter rent or carrying charges of the project. Instead of requesting the local legislative body's consent to reduce taxes below the 20% ceiling, the company may apply for benefits under the local law, if any, enacted pursuant to RPTL §489.

### A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Land and improvements must be owned by a mutual company (co-op) organized as a limited-profit (Mitchell-Lama) housing company. The specific organizational requirements 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) the 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.

2. **Property Location Requirements:** None.
3. **Property Use Requirements:** Property must be used for housing for low-income, moderate-income, or middle-income persons. For a description of the income limits on low-income tenants, see Chart ID, PHFL Article 2, §31. The statute sets no limits on the income of moderate-income or middle-income tenants.
4. **Certification by State or Local Government:** None.
5. **Required Construction Start Date or Other Time Requirement:** None.

- ### B. LOCAL OPTION:
- Yes – The consent of the local legislative body is required to reduce the taxes below the 20% annual shelter rent or carrying charge maximum. Such consent is allowed only for projects that involve rehabilitation or other improvement of a building and may not authorize reduction below 10% of the annual shelter rent or carrying charges of the project.

### 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	No exemption

			allowed	allowed
<b>3. Taxing Jurisdiction</b>				
<b>a. County or County Special Districts</b>	Ex	NA	Tax	Tax
<b>b. City</b>	Ex	NA	NA	Tax
<b>c. Town or Town Special District</b>	Ex	NA	Tax	Tax
<b>d. Village</b>	Ex	NA	NA	Tax
<b>e. School District</b>	NA	Ex	NA	NA
	<b>Ex-Exempt</b>	<b>Tax-Taxable</b>	<b>NA-Not Applicable</b>	

\* Amount of exemption is limited to the amount of taxes that exceeds 20% of the annual shelter rent or carrying charges of the project. Any further reduction from the 20% maximum, down to a minimum of 10%, requires the consent of the local legislative body and applies only to housing projects that are rehabilitated or otherwise improved.

\*\* Duration of exemption is limited to the period during which a loan made under PHFL Article 2 or any subsequent loan approved by the State Commissioner of Housing & Community Renewal or other supervising agency to enhance the residential portion of the project is outstanding and the project continues to be operated as a limited-profit housing project. (The provision covering subsequent loans was enacted on June 30, 1989, became effective as of July 1, 1987, and applies to any projects whose tax exemption expired on or after July 1, 1987. Reinstatement of the exemption on affected assessment or tax rolls must be done through the correction of clerical errors or unlawful entries, whichever is appropriate, as described in RPTL Title 3, Article 5.)

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

**E. CALCULATION OF EXEMPTION:**

- General Municipal and School District Taxes:** 100% of the amount of taxes that exceeds (a) 20% of the annual shelter rent or carrying charges of the project or (b) the percentage between 20% and 10% agreed to by the local legislative body. ("Shelter rent" equals the total rents received from 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 received 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.)
- 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>
4865	

**Assessment Roll Section(s):** Taxable (ARLM Section 1).

**NOTE:** This code should not be used to identify property which, at the option of the owner, is exempt under RPTL §489 or 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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