

## Exemption Administration Manual - Part 2 Multiple Dwellings

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

**Limited-Profit Housing Companies**  
(UDC subsidiary other than not-for-profit)

**PHFL Section 33(1)(c)**

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**Exemption Code(s):** 48650

**Year Originally Enacted:** 1968

**Related Statutes:** None

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**SUMMARY:** Real property that (1) is owned or under the control of a limited-profit (Mitchell-Lama) housing company which is a subsidiary of the NYS Urban Development Corporation (UDC) but is not organized on a not-for-profit basis, or (2) was once owned by such a housing company and has been sold to another limited-profit housing company with the approval of the State Commissioner of Housing, and (3) is used for low-income or middle-income housing is partially exempt 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 at the time of acquisition by the original limited-profit housing company (subject to minimum limits on taxes payable as described under Limitations on Exemption below).

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### A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Land and improvements (1) must be owned or under the control of a limited-profit (Mitchell-Lama) housing company which is a subsidiary of the UDC but is not organized on a not-for-profit basis or (2) must have been acquired by a limited-profit housing company from such a UDC subsidiary. To qualify as a UDC subsidiary, more than half of the voting shares of the housing company must be held or owned by the UDC or more than half of the directors, trustees, or members of the company must be UDC designees. 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 agency, (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 approval of the State Commissioner of Housing or other appropriate agency 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 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 acquisition by the original limited-profit housing company. 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 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 rents, apply.)

\*\* Duration of exemption is limited to the period during which the mortgage loans of the original housing company, including any additional mortgage loan, if approved by the State Commissioner of Housing & Community Renewal or other supervising agency, the proceeds of which are used primarily for the residential portion of the project, are outstanding and the project continues to be operated as a limited-profit housing project. (The provision covering additional mortgage 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.)

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 acquisition by the original limited-profit housing company (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:**

Code	Description of Alternative Codes Possible
48650	

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

**NOTE:** This code should not be used to identify (1) property that is owned by a UDC subsidiary

organized under the NPCL and PHFL Article 2 and is exempt under RPTL §422 or (2) property that is exempt under any of the statutes listed under Similar Exemptions below.

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

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

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

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